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Minutes of the California
OFF-ROAD VEHICLE ADVISORY COUNCIL
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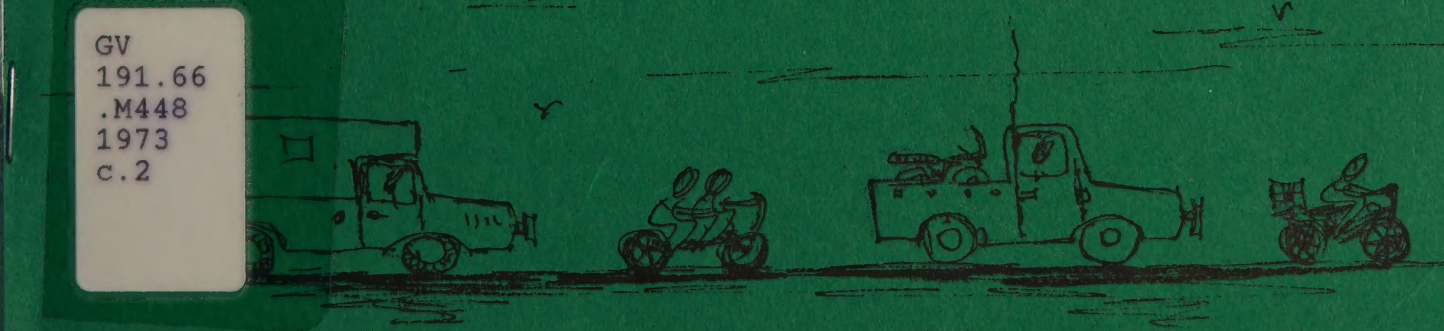

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OFF-ROAD VEHICLE ADVISORY COUNCIL

to the

BUREAU OF LAND MANAGEMENT

MEETING
February 21, 1973

PROCEEDINGS

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OFF-ROAD VEHICLE ADVISORY COUNCIL

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ATTENDANCE

Board Members:
Beula Edmiston
Jack L. Edwards
Robert Ham
Howard Harris
Alfred H. Kramm
J. R. Penny
Russell E. Sanford
Ron Sloan
George Strauch

Absent:
E. C. Fullerton (represented by Roger Allemond)
E. Lamar Johnston
Dan Kelsay
Roger K. Mitchell
Al Schiavon
Ray Talbot

Bureau of Land Management:

State Office:
E. J. Petersen
John Birch
Jerry Harrell
Craig Tocher
Jim Young
David Little

Riverside Office:
Delmar Vail
Bill Flint
Neil Pfulb

Bakersfield Office:
Lou Boll

Redding Office:
Wayne Zinne
Dick Burch

Susanville Office:
Kemp Conn

Folsom Office:
Alan P. Thomson
Dick Harlow

Ukiah Office:
Melvin Clausen

Guests:
Burt Stanley, Regional Solicitor's Office
Mike Hinshaw, American Motorcycle Association
Hildamae Voght, Calif. Outdoor Recreation League
Glenn Harris, Hollister Hills Motorcycle Playground
Fred Wildanger, Western Rockhound Association
Bruce Kennedy, State Dept. of Parks and Recreation
Mr. & Mrs. John Clausen, American Motorcycle Association
Thomas Grealish, El Cajon Motorcycle Club

ATTENDANCE

OFF-ROAD VEHICLE
ADVISORY COUNCIL
MEETING

Sacramento Inn Walnut Room
February 21, 1973 9:00 a.m.

A G E N D A

Introductions & Opening Remarks	Howard Harris
Explanation of Proposed Regulations	John E. Birch
Discussion of Proposed Regulations	Howard Harris, Moderator

OFF-ROAD VEHICLE
ADVISORY COUNCIL
MEETING
Sacramento Inn Walnut Room
February 21, 1973 9:00 a.m.

A G E N D A

Introductions & Opening Remarks	Howard Harris
Explanation of Proposed Regulations	John E. Biron
Discussion of Proposed Regulations	Howard Harris, Moderator

OFF-ROAD VEHICLE ADVISORY COUNCIL

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OFF-ROAD VEHICLE ADVISORY COUNCIL

to the

BUREAU OF LAND MANAGEMENT

7th MEETING

February 21, 1973

PROCEEDINGS

INTRODUCTIONS AND OPENING REMARKS

HOWARD HARRIS
Co-Chairman

Harris: Welcome to ORVAC. Let's start off by introducing our board members, BLM staff and guests. (See attendance sheet).

The purpose of the meeting today relates to proposed regulations implementing the Executive Order on off-road vehicles. ORVAC, of course, set out some principles under which off-road vehicle use should be recognized, first as a legitimate use, but second, a regulated use, under land classification of "open", "restricted" and "closed"; trying to resolve the conflicts among other users and groups, and at the same time try to preserve the natural resources that we have.

The position of the Committee was, when these rules and regulations were finally promulgated, we would like to take a look at them and see if we wanted to make any recommendations. So, this is the purpose of today's meeting, to take a look at those and have them explained to us, then we'll decide where we're going from here.

I'll call on John Birch to explain to us what the rules and regulations say.

EXPLANATION OF PROPOSED REGULATIONS

John Birch
Chief, Division of Resources

Birch: Last Wednesday, February the 14th, these proposed regulations, that were sent to the Council members in the mail, were published in the Federal Register.

Now, the proposed regulations will implement Executive Order 11644, which Howard mentioned and you all looked at last May.

The proposed regulations that you have pertain only to Bureau of Land Management administered lands. There will be related rules for other public lands managed by Reclamation, Sport Fisheries and Wildlife, National Park Service, other agencies in Interior and Agriculture, the Defense Department and the Tennessee Valley Authority; all of the public lands discussed in Executive Order 11644. So, we're going to be talking about how these regulations apply to BLM. They will eventually be published in Chapter II of Title 43 of the Code of Federal Regulations.

At the last ORVAC meeting, I understand that you reviewed the first draft of the proposed regulations to implement this Executive Order.

The ones we have before us today vary a little from the first draft. These are differences from what you looked at previously:

Number one: Vehicles used for mining and prospecting purposes are excluded from the effects of the proposed plans.

The definition of off-road vehicle further excludes the emergency vehicle or law enforcement vehicle or any vehicle that's expressly authorized by an issued BLM permit, lease, license or contract.

Last year's draft provided for area designations "open with restrictions" and "closed". The new draft has open use, restricted use and closed.

We'll now pass on to the proposed Title 43 CFR Parts 2070, 6250, 6290, Use of Off-Road Vehicles.

The first point you'll notice is that these proposed rules are open for written comments, suggestions, or objections, until March 16, 1973, that is 30 days from the publishing date.

In the news release the Council received there was also mention of the Secretary extending a closing date for comments on the Draft Environmental Statement covering the Departmental implementation of this Executive Order. A copy of that Environmental Statement Draft has been included in your blue folder. The news release mentioned that the Secretary extended the closing date to run concurrently with these regulations, so we're assuming the March 16 closing date would pertain to the Environmental Statement closing date.

Now, let's go to page two, starting off: "Chapter II, Title 43, of the Code of Federal Regulations, is amended as follows". It lists four amendments:

Item one pertains to Title 2071, entitled "Areas or Sites that may be Designated". These are recreation sites, and do not refer to off-road vehicle areas.

Item two, then, is the Title 43, Chapter II, 6250.1-2, paragraph (c). This is reprinted in the handouts you received.

Harris: Does everyone have it? Look on Page 5, Item 43.

Birch: That section covering the establishment of routes and trails, rights-of-way relative to motor vehicles, trail uses, motor vehicle safety and operating rules is deleted. That is Paragraph (c) of 6250.1-2.

Edwards: What is the procedure going to be? Do you want to discuss these as you go along, or are you just going to go briefly through them and then we discuss them later?

Harris: Well, what do you prefer?

Edwards: Well, I have comments on nearly everything in there, so it's at your pleasure.

Harris: What does the Committee think?

Sloan: I would like to see John go through his explanation and we can pick up from that. That way he can continue on, wrap it up and then be available to answer questions.

Harris: Some answers may come out as we go along. Why don't you go completely through them, John.

Birch: All right. They are fairly general. Much of this will be interpreted later.

I would pass over the "Purpose", "Objectives", and "Authority". They are self explanatory.

"Definitions": I might note here that the ORVAC report did not define an off-road vehicle, per se; however, it did define off-road use as "the use made by any motorized vehicle traveling off an established road".

I mentioned earlier some of these exemptions to off-road vehicles, primarily those of emergency, law enforcement; of those expressly permitted by a permit, license or contract.

Item (b), "Public Lands" are lands administered by the Bureau of Land Management.

Item (d), "Authorized Officer", I think most of the Council is familiar with the authorities.

Under page four, "Applicability": These regulations do not apply to State, County, or municipal highways or roads.

Item (a) "Use of Off-Road Vehicles", will be discussed later in Subpart 6295 on Vehicle Standards.

Item (b), Operating requirements follow under subsequent parts of this section.

Item (c), "Except as provided in the following sentence hereof, the operation of off-road vehicles is prohibited on those areas and trails designated as closed to off-road vehicle use. This prohibition does not apply to any vehicle while being used: (1) to explore or develop public lands for minerals pursuant to the United States mining laws; or (2) to conduct oil and gas geophysical exploration operations on the public lands".

Again, it is noted these exceptions would come on the closed areas.

6292.1 concerns "Classes of Designations". Basically, these regulations say areas will be opened unless specifically restricted or closed. For example, we have an open area now in Stoddard Valley in our Riverside District.

Vail: As an example, yes, but it hasn't received this formal type of designation.

Birch: None of them have received the designation, but I mean it would be an example.

Vail: Right.

Harris: Why don't you just read that?

Birch: We were talking about Open Use Areas and Trails: "These are areas and trails where Off-Road Vehicles may be operated without restrictions, but subject to the operating regulations and vehicle standards set forth at Subpart 6295 of this Chapter".

And again, I think it will be noted as we get a little further, the operations and the organized events in those things are provided for specifically later on.

Restricted Areas and Trails: "These are areas and trails where the use of Off-Road Vehicles are subject to restrictions deemed appropriate by the Authorized Officer. Restrictions may limit the numbers or types of vehicles allowed, times of use, and similar matters. Restricted areas or trails may be designated for special or intensive use, including, but not limited to, organized events".

Closed Areas and Trails: "These are areas and trails where the use of Off-Road Vehicles is permanently or temporarily prohibited". Again, Al Thomson, in your district, the Panoche Hills is one example of this that might become a "Closed Area".

Under "Designations" we noted the provision for areas, remaining open unless designated "restricted" or "closed".

The "Authorized Officer" under (b): "may redesignate any public lands, including those designated as open to Off-Road Vehicle use, at any time hereafter if he determines that designation is appropriate".

"Designnations of restricted and closed areas and trails will be based on the following: (1) The ability of the land and its resources to withstand and sustain Off-Road Vehicle use impacts. (2) Consideration of the scenic qualities of the land, and its cultural, ecological, and environmental values. (3) The need for public use areas for intensive recreation vehicle use. (4) Consideration of the impact on other lands, use, and resources. (5) The potential hazards to public health and safety, other than the normal risks involved in Off-Road Vehicle use".

Following through 92.4, "Procedures for Designation," we're talking about public participation, which I think the Council is fairly well familiar with.

"Identification of Designated Areas and Trails," I think there will be some question in our minds on how we will accomplish this, how soon, by what means, by what funding, manpower necessary to do this, and the necessity for such things as environmental analysis and that sort of operation.

We move to page seven under 6293, "Organized Off-Road Vehicle Events." These regulations proposed here say these events will be under the permit system, Subpart 2924 of this Chapter, which is our special land use permit procedures -- the same authority is the means present for the permit procedures starting September.

Subpart 6294, "Management of Off-Road Vehicle Use, Effects of Use; Changes in Designations or Restrictions." We're talking here about the abilities and necessities of obtaining data and information on Off-Road Vehicle use and its effects on the land and the resources. Building up the information there for further analysis.

"Operating regulations," 95.1, perhaps I could read these last two sections, Operating regulations: "No person may operate an off-road vehicle on public lands without a valid motor vehicle operator's license or learner's permit. Persons under licensing or permitting age must be accompanied and supervised by a person 21 years of age or older who has a valid operator's license. No person shall operate an Off-Road Vehicle on public lands: (1) In a reckless, careless, or negligent manner; (2) In excess of established speed limits; (3) While under the influence of alcohol or drugs; (4) In a manner likely to cause excessive damage to or disturbance of the land, wildlife or vegetative resources; or (5) During darkness without lighted headlights and taillights."

95.2, "Vehicle Standards": "No Off-Road Vehicle may be operated on public lands unless it conforms to applicable State laws and regulations relating to registration, operation, and inspection. All Off-Road Vehicles shall be equipped with adequate and operating brakes, mufflers and spark arrestors. No Off-Road Vehicle equipped with a muffler cutout, bypass, or similar device, or producing excessive noise, may be operated on public lands."

Vail: That was "shall be," instead of "may".

Harris: Thank you Mr. Birch. Do you have any questions of John on his explanation?

DISCUSSION OF PROPOSED REGULATIONS

Howard Harris
Moderator

Edmiston: What constitutes an "established trail?"

Harris: This question, as you recall, was raised in ORVAC. By that we mean a trail that shows on a BLM map. Is it going to be designated by a sign, is it going to be designated by a map; how will people know whether it is designated or not?

Birch: I think they'll have to be designated in such a way that the public will be aware. However, we recognize right now that designation of these trails and areas is going to be quite an impractical thing right off the bat.

Edwards: Let's start at the beginning. The new paragraph.

Harris: All right.

Edwards: If you go back and check through this thing, the addition of this new paragraph, which in essence goes back to Subpart 2071. What happens if we have designated an area or a trail for vehicle use, and then somebody later discovers something in there should be saved -- say, some Indian petroglyphs, or an archaeological site or some exotic flora. By excluding this one section or adding this paragraph in there, you have eliminated any possibility of, at a later date, creating a natural area or something of this nature within the structure of a vehicle use area or trail. This is our question, is this the route we want to go?

Harris: You are questioning the advisability to redesignate, such as on page five?

Edwards: No, I'm questioning the advisability of making this new paragraph, Paragraph (c), which says that those designations in 2071 don't apply to vehicle use.

Birch: I think here we're trying to say that we may designate off-road vehicle use in a separate manner than these other designations.

Harris: I think you have two sets of criteria, Jack. In other words, you are going to set a picnic site, say, opposed to a place to hold a race track and maybe you don't want to have the same criteria.

Edwards: 2071 doesn't say anything about a picnic site.

Harris: You are familiar with it, Ron, how about you reading them.

Sloan: 2071 is rather elaborate and it's not found in this circular. The designation of 2071.1 is "Areas or Sites that may be designated." Now, I'll just read the beginning of each paragraph. "No land may be designated under the regulations in the Subpart unless they are either classified for retention of promotional management, regulation--".

But we get in here, the following type of area or sites or areas may be designated under the regulations in this Subpart. Recreation Lands: Class 1, High Density Recreation; Class 2, General Outdoor Recreation; Class 3, Natural Environment Areas; Class 4, the Outstanding Natural Areas, Outstanding Scenic Splendor, Natural Wonder, Scientific Importance--. Class 5 is Primitive Areas, Extensive Natural Undeveloped Areas; Class 6 is Historic or Cultural Sites. Class 6 there are two: Recreation Sites, and there is a relatively small tract of land, Resource Conservation Areas, Natural Resources, Experimental Research Areas, Natural Resource Land. And then this is where this paragraph would be entered into.

Edmiston: What is that source you are on?

Sloan: This is the Code of Federal Regulations, it's 2071, but it is a --

Edwards: I don't have a copy of it.

Sloan: I don't think it hurts us in reading it very quickly here again, Jack.

Edmiston: Give it to me again, the Code of Federal Regulations?

Harris: I think the point we're making here is - Are you going to use the same criteria for the off-road vehicle use as you do, say, for primitive areas and these other areas.

It would seem that the people that are suggesting this will have some special criteria for the off-road vehicle groups. You are saying, no, you want the same; is that your point?

Edwards: I'm questioning the advisability of inserting (c), the provisions of that Part do not apply to the designation of areas or trails for off-road vehicle use; that these do not apply or would not then apply. We pick up this new section that they've put in, 6290, and there is no reference about any of these types of things in this new regulation.

Harris: Now, what type of things are omitted? Let's go over that.

Edwards: It's directed to the one he just said, Recreational Areas, High Density Recreation, General Outdoor Recreation, Natural Environment Areas, et cetera.

Harris: Well, this doesn't mean they are going to be eliminated. Just means you don't apply those rules to off-road vehicle use.

Edwards: Why not?

Harris: I don't know. Here is a man who would like to say. Mr. Solicitor?

Stanley: I think by doing this you allow yourself to have both alternatives available to you for clarification. Now, the effective classification under the new 6290 provides for closure and this type of thing.

Edwards: Right.

Stanley: The regulations under 2100, I believe, don't have that same type of power in there. It's for a totally different reason for the areas that are going to be classified. In other words, they are just simply saying that they don't want people to be confused by this type of classification. When there is this type of classification, which is directly applicable to off-road vehicles available, land can be classified for both, under both sections as far as I can see, but it's only when the operative aspects of land regulation and land closure come into effect. They come in under 6290, where they don't come in under this other section. The two are quite compatible, and I don't think there is any conflict at all.

Harris: Well, Jack, if that still confuses you, when the time comes for the written documentary evidence, why don't you write in and tell them what you think.

Edmiston: I had a brief look at the Code. There are very valid items of consideration, but we're deleting this, as I understand it.

Harris: Do you want the same considerations for off-road vehicles as for the other designations?

Edmiston: Are we closing our eyes? I'm asking a question to very important matters. I'd like clarification.

Stanley: I think Subsection (c) here doesn't provide for the mutual exclusion of designations. In other words, they don't have to be designated one way or the other, they can be designated under both. You can classify land as "recreation land"; you can also classify them as "open," "restricted" or "closed" and the two are not mutually exclusive. In other words, two classifications lie one on top of the other and the operational effects of both classifications will operate if it is so desired.

Edmiston: In other words, it would be perfectly possible to have an archaeological site and have a motor vehicle trail over it at the same time?

Sloan: 6290, I think to answer Beula's question, is on the top of page six. It goes into the designation of restricted and closed trails based on the following, and it lists five items of consideration: scenic qualities of land, cultural, ecological, environmental values. It's the area I think you are leading into, Beula.

Edmiston: I'm just wondering why we're closing that door.

Harris: The Solicitor says we're not closing the door.

Stanley: They can classify those as closed. They can classify them as recreational lands as closed to off-road vehicles at the same time.

Edmiston: I'll study it.

Allemond: Maybe we could have the advice of the Solicitor here. Can we resolve this by merely substituting in (c) as it reads now instead of 6251.1, substituting 6290? Instead of saying this part does not apply et cetera. Here you are saying that the motor vehicles will be operated according to 6290. Would this resolve the question at hand?

Stanley: I think you can say that, yes.

Harris: Did the members get it clear that this is not the ultimate testimony on this thing? There are going to be, what, 15 meetings throughout the State?

Penny: Mr. Harris is referring to a news release dated February 21 in your packet. It lists the meeting places, the dates.

Harris: It would seem to me that what we want to do today is to clarify this type of point, but not necessarily present all of your testimony here. I think that after you hear all this discussion, maybe you'll want to modify it, or add to it.

Edwards: I'll go to the next one. That is the deletion of Subpart 6250 if this is in order.

Harris: Okay, let's take them in order.

Edwards: All right. Now, what we've done here with the deletion of this entire section, the way we see it is that in Part 6251 we had a very positive approach to the vehicle problem, the vehicle situation, whichever you prefer.

They use phrases in 6251 like, "We'll designate vehicle use sites, provide suitable locations, provide recreational opportunity. Sites and areas shall be selected." And if you come to them, take 6290.0-1, the "Objectives" of the new regulations, you find that just the reverse is true. They have no longer taken the positive approach to this thing, and it's rather negative in aspect, but what they are speaking of now is of the control.

Now, we realize that there has to be some type of control, but now we're forgetting really what our objectives were in the first place, and that was to take care of the vehicle users of public domain land.

Harris: No, that wasn't our principal use, Jack, let's face it. It was a combination.

Edwards: All right. Combination if you will.

Harris: Preserving our resources.

Edwards: All right.

Sloan: An interesting point Jack brings, I don't disagree except there is one heck of a hooker that the Solicitor I'm sure would be very happy to point out. The first two words in 6251 is "where appropriate." "The Bureau will designate vehicle use sites and areas for an operation--".

The rest of it is all possible, but we've got a hooker in the beginning that no place might be appropriate. Theoretically, I hope that would not be the case. It kind of ties us up there a little bit on that one.

Harris: You have to take in mind that you're going to protect the public, minimize damage and all that; so nothing may be appropriate. That's a very interesting point, Ron.

Anything else on three? How about four, the new Part on 690. Of course, that's an issue. "Objectives."

Edwards: Our main purpose in bringing this up is that we think that they have taken just absolutely the reverse policy that was stated in 6251.

As we mentioned before, the other one was a positive approach to it. We feel this is strictly a negative approach, control and direct, and probably it's a matter of terminology in the words they have used that has caused us concern.

Kramm: I'll agree to that.

Birch: I think it should be pointed out, the Objectives here are almost verbatim as to the Executive Order.

Harris: Any comments on that?

The next one if "Authority." Any comments on the Authority? Or "Definitions?"

Kramm: I like this part, 6290.0-5, in connection with 6290.0-8, would say to us that every acre of BLM land is off-road and every road or trail on BLM land is off-road. And by this - by the exclusion within BLM land, of course, the State, County and municipal highways and roads take these away from BLM land and everything else is off-road. That's what I feel this section means.

I would like to comment on the Definition: That it is extremely broad, refers to muscle power as the only motivation power that is exempted from this category.

Now, I would like to point out that motive power is derived from a number of sources, in addition to steam, electricity or internal combustion, and these could be gravity, wind, waterflow, wave action. If you want to coast down hill on a bicycle and you were coasting, this would fall under the category of off-road.

If you were tobogganing down a hill, that would be off-road because it uses no muscle power, it uses gravity.

Examples of wind power would be sail boating. I see that it's exempted in here, are motor boats, but if at the same location one had a sail boat, it would seem that since the motor power is of other than muscle power, it is wind, this would fall in the category of off-road.

Let's take going down a river. If you have a motor launch or something, or motor boat going down a river, this would be exempted, but if you had a raft going down a river, this would be an example of off-road use. Perhaps maybe I'm wrong, due to the gravity of waterflow.

I don't know whether surfing would be included in there or not, but surfing employs wave action. At least the pictures I've seen of surfing in Honolulu, the big waves, it doesn't require -- requires human skill, but the human muscle power doesn't provide for the surfing at all.

Edmiston: Oh, yes, it does.

Kramm: Well, you say this is not a vehicle that you are riding on.

I've looked up the definition of vehicle in a dictionary and all it says, it means a means of carrying or transporting something. The dictionary doesn't distinguish whether a vehicle has any particular size, shape or character and I suppose that an automobile is a vehicle, we all agree on that, I'm sure; also a pair of roller skates is a vehicle and they might both qualify as a vehicle.

So, I say that this particular definition of off-road is pretty conclusive and it might cover a great many more things than it's intended to cover, than those who framed this and have thought about it as being able to cover.

Harris: Al, you forgot gliders.

Kramm: No, I haven't.

Harris: Oh, you are coming to that?

Kramm: No, because I note up there it said - it did say over the land.

Harris: That's right, gliders go over the land.

Kramm: But they don't touch on the land. Gliders might be a point, but I don't mean to go that far.

Now, when it comes down to the next paragraph where it says, "regulations will apply to State, County, municipal highways and roads," it leaves out mentioning of Federal or National. So, this means that it applies to everything else.

Now, there are literally thousands or millions of trails that date back to the days of '49, that are not recognized on State, County or municipal maps as having any part of that system. They would naturally fall within the system of access to the land which is under the jurisdiction of the Bureau, or any other jurisdiction. It would seem to me, then, that all of these, all of this land, all of these trails, would fall under the category of off-road and practically every vehicle you use would then be for off-road vehicle use and they would all be subject to these regulations. I don't know whether I'm right or wrong, it seems like it's a terrifically broad deal.

Now, coming into common usage, we don't agree with that at all. It is the use of the word "off-highway." This is what this definition really is saying that this is off-highway. I would object to this.

Harris: What you are saying is that it's a little broad?

Kramm: Yes.

Sloan: It covers everything.

Harris: Any other comments on Definitions, Jack?

Edwards: Well, we have always objected to the definition of an off-road vehicle, mainly because it is all inclusive and does not adequately describe an off-road vehicle or its capabilities.

Harris: Do you have a definition?

Edwards: Yes. We describe an off-road vehicle as any vehicle designed for, or capable of traversing on or over the natural terrain beyond the limits and confines of an established road, trail or area.

Now, to accept this definition, it would be necessary that we define roads, trails and areas.

Edmiston: And establish it.

Edwards: We are suggesting that the following definitions be included in Section 6290.0-5: Roads, paved or unpaved, public ways for vehicles as contained on Federal, State, County or local maps as part of their transportation system. (F), trails: Those public ways for vehicles not contained as part of the transportation system of Federal, State and County or local agencies, but which are clearly visible and have evidence of previous use. (G), areas: Those parcels of land specifically set aside for vehicle use by a duly authorized office. We feel that it is extremely important that these terms be defined.

At the ORVAC meeting December the 3rd, 1969, we were having problems defining these terms and it was suggested we could get around the problem by adding "as shown on Bureau of Land Management maps." I don't think we can avoid this issue any longer. Once the Bureau of Land Management does its control and is activated, these definitions of these terms will be of major importance.

In order to avoid serious legal problems in the future, we strongly recommend that these terms be defined.

Harris: Okay. Now, do you have that to submit in writing?

Edwards: Yes.

Harris: Good, fine. We hope you will do that. I think your point is well taken because as we were talking in the Committee.

Edmiston: The word "establish" that we asked be clarified is in the Secretary of Interior release on page two, paragraph two -- "an off-road vehicle --" and so forth. "Off established roadways for travel over land, water, sand, and so on." I do wish for clarification on what is "established" be it -- I would suggest not only a map, but maintained or visible. It would be visible for me to track across the desert and say this is an established trail.

Harris: Well, as you recall in Jack's definition, he included one where it's clearly visible where people have been traveling.

Edmiston: That is not enough. He can travel over it and I can travel over it and it's clearly visible, but it's no go. We'd have them every place.

Harris: I think I'm inclined to agree with you. You can have a caravan of his club going through a place and after they've gone through, then you've got a road. This is too broad, Jack, I think the lady has a point well taken. Think about that one.

Edmiston: I was asking for affirmative clarification to "established" which is in the Secretary of Interior's release.

Now, I'm suggesting we go to page three. And under "Definitions," I believe we all concur that they are broad, in my opinion they must be.

I question "any vehicle whose use is expressly authorized by a permit, lease, license or contract" as very, very broad. I would like clarification of that.

Harris: Mr. Solicitor, would you want to comment on that one? She says this authority is too broad. She means this lets too many vehicles through.

Stanley: I think that's more of a matter of opinion than any legal point. I think you know that the Bureau of Land Management desires to permit an individual to go practically any place they can do it, and this merely confirms that. We trust that they'll exercise their discretion.

Edmiston: Well, what would be the guide line? You certainly don't have the authority just to go out as a dynasty and say, okay, take it away.

Harris: Well, let's suppose it's a garbage truck belonging to the Bureau of Land Management. I assume that would be an example of one that has a permit to collect the garbage.

Stanley: I think this is one of the interpretations that is how far you want to go.

Edmiston: But do you have any guide lines?

Penny: May I suggest, Beula, that the Bureau, our Director, will develop annual release instructions which will be the guidelines for the Bureau people to follow in implementing the regulations. So, there will be some directives issued that are going to be far more detailed than we are seeing here today; and many of the questions that you are raising will be certainly attacked by the Director.

Edmiston: But can you give us some idea of what sort of direction you will have?

Penny: Not at this point, Beula, I mean you are seeing all there is.

Strauch: I presume that that was put in there authorizing the BLM to give permission to people strip mining and this sort of thing, mining purposes?

Edmiston: That's taken care of specifically.

Harris: Okay. Any other comments on Definitions?

Allemond: Yes. We would like to see an addition to the exclusions in this Part (a) (2), "any military, fire, emergency, or law enforcement vehicle while being used for official or emergency purposes." This would enable such agencies as the Department of Fish and Game to conduct their spring development of installing gutters, wildlife habitat development; and Mr. Penny was concerned here a while back about the geological survey.

Penny: Yes.

Allemond: This would enable them to be on official business to perform their duty.

Harris: They could still come under three, under "Authority."

Allemond: This would be by permit.

Harris: In other words, you don't want to get a permit.

Allemond: Actually, we're usually under a cooperative agreement anyway.

Harris: That would be covered in three, wouldn't it? In other words, you would be operating under a permit, or license.

Penny: I suggest, though, the wording here says "military, fire, emergency, or law enforcement." Vehicles for official use. And that doesn't say for casual or administrative use.

Edmiston: Let's not get too casual.

Penny: No, I'm just saying this excludes administrative use of official cars.

For instance, let's put it down to our cadastral survey crews; Burt, how does this apply to them?

Harris: Do they have to get a license or get an authorization?

Stanley: I think they would have to get a permit. Now, if they were contracted with the Fish and Game, I would question as to whether they would have to get a permit. In fact, they are designated as a law enforcement agency.

Penny: They are designated almost by name here.

Stanley: Right.

Penny: But the others such as the Bureau of Land Management's cadastral survey crews, or the crews for the geological survey that are out --

Stanley: I think that's true.

Allemond: Not all of our functions are necessarily law enforcement.

Penny: Right. Those particular functions that aren't mentioned here would come under the permanent category.

Stanley: I would think so.

Harris: Okay. Any other comments?

Boll: I have a problem with three things. I haven't read these yet, but under the definition of exclusion, the term "Off-Road Vehicle" excludes any vehicle use unless expressly authorized by permit; to 6293, Organized Events, authorized by permit; to 9295.1, Operating regulations. They seem to be consistent. You have to have a permit to run a race and if you have a permit, it excludes the off-road vehicle and then avoids the vehicle standards of operating one.

Sloan: It should.

Boll: If you are driving along under the influence of alcohol and so on --

Sloan: Well, on portions of it, but we haven't established a speed limit.

I have a question when we get to that point because I think when you have issued a permit, the authorized speed limits are no longer -- we're talking about racing and rallies which was the whole function of that group at the very beginning, basically, and if we have to run with established speed limits, that throws that out. So I think that permit exclusion should be allowed.

Harris: It seems to me that any permit, lease, license or contract issued would have conditions.

Sloan: Right.

Harris: It wouldn't be a way of getting by the others, it would seem to me that your manual would cover the conditions that might be put into the permit.

Kramm: I would like to point out one other observation on "Definitions." As it reads now it seems any road or trail that exists on Federal public land is considered off-road.

Now, if it is considered off-road, then, it strengthens the argument of those people who would like to place practically everything we have in wilderness, that this is a roadless area and it would, therefore, qualify more readily as wilderness because it's a roadless area. Under this definition, these aren't recognized as roads, they are apparently recognized as off-roads.

I feel that this is an important subject in the classification of land, or the classification of them for wilderness or no-use areas.

As you know, one of the qualities of wilderness is that it must be a roadless area of 5,000 acres or more. If these are considered roadless, why then they would fall very readily in that classification. So, I think we're in a problem here with those of us who think that things that have been established as thoroughfares in which you travel from one destination to another on a defined track, we don't think that these type of roads - they qualify as roads - but they don't qualify as roadless.

Harris: Okay. You're saying in effect, then, you want more defined as roads than other people do so that you won't have any roadless areas to the wilderness people won't have any wilderness.

Any other comments on Definitions?

Edwards: I have one I would like to have clarification on and that's 6290.0-1; then for some reason or another we go to 6290.0-3. Where is 2?

Harris: That's to leave room for future paragraphs and amendments; am I right, Mr. Solicitor?

Stanley: There is a directed standard and place for such things as authority, policy, et cetera, each one of these have their designated place. Well, if this doesn't apply in this instance, that's left out and the number is left out, so they don't necessarily run in sequence.

Harris: In most cases you will never see a complete sequence of numbers chronologically and this, of course, eliminates the need for decimals and all that. So, you never need a new paragraph and you don't have to keep adding decimals and dashes.

Edwards: Well, I just wanted to bring it out because there is also -- 4 is left out and 7 and 6 is left out and I just wanted to be assured that in case they decided to fill these blanks in --

Harris: You want to be around when they fill them in?

Edwards: I want to be notified of what their intent is.

Sanford: On 6290.0-1 on page two, the "Purpose" and "Objective" numbers are the same.

Harris: Maybe "Purpose" and "Objectives" are numbered the same. Now, that ought to be bad, that ought to be illegal. John, how about that?

Birch: The official documents in the Federal Register has a .01 -- a .1 and a .2. 0-1, 0-2.

Harris: The 2 would come after the 1, wouldn't it? That's a very interesting observation, Russ, it shows you were looking very closely.

Kramm: We have the same comments with omitted numbers in thinking you don't know what they are and they might tell us something different if we were to read them in connection with this.

Vail: There is nothing written.

Harris: They don't even exist.

Kramm: That's good, I'm glad to hear that.

Harris: You won't have to worry about them. Are there any other questions about the missing numbers? Okay, what about 6291.1?

Ham: Under off-road vehicles operated on the public lands must conform to the vehicle standards -- of course, they are on the back page here.

Right now I would like to talk about mufflers and spark arrestors. The large portion of the people that I represent never take their vehicles outside of a place like Pismo Beach Dunes, or the Imperial Sand Dunes; and to tell me they have to put a spark arrestor on this thing, I simply can't understand it.

My objection is more than just that. First of all we've got the State legislation saying they have to be muffled adequately. I found out to take my dune buggy and get a spark arrestor on it, they don't make one at this time that will adequately arrest the spark on the Volkswagen engine unless I get two motorcycle spark arrestors, which means I have to go dual exhaust, which means that I'm going to exceed the 92 dba that the State requires me to make on my exhaust noise. So, I have to object to this thing since the mechanism isn't even available at this point. No manufacturer that is registered at the San Dimas Forest Service has a spark arrestor of an adequate size to handle a Volkswagen engine that is smaller than, say, a 30 gallon drum.

Harris: Russ?

Sanford: I want to sympathize with Bob's problem because I think it applies to every one of us here, whether we're operating generally an off-road vehicle or not, because by definition, an off-road vehicle is any vehicle, as we know it, that goes and pulls off the road. This means that if Beula goes out to take pictures of the desert and she pulls her car off to the side of the road and parks it, her family Buick, or whatever, it has to have a spark arrestor or she's in violation.

As to those gliders you were talking about, this is an off-road vehicle and it would have to have a spark arrestor on his glider if you want to carry it to that extreme.

Edmiston: I think if we take it off-road and make an off-road vehicle with it, yes, we certainly should.

Sanford: How about your family station wagon?

Edmiston: Yes.

Sanford: The minute you pull off the road, just for parking purposes.

Harris: For certain areas with people who enforce the spark arrestor law, interpret the highway approved mufflers will go to spark arrestors. We've gone through this on our Motorcycle Playground a hundred times. And dune buggies that do have an adequate muffler has passed through the Forestry, although you can argue the point back and forth.

Ham: Howard, you can't use a stock muffler on a dune buggy. This is what you're talking about. The Forest Service accepts the standard manufactured vehicle muffler, original equipment muffler, as an adequate spark arrestor in must instances. The idea of a dune buggy, of course, is to shorten it, shorten the wheel base and raise if up. If you take your Volkswagen mufflers, it sticks out the back, and sticks out the bottom and you can't use it. You've got to come up with an exhaust system to bring the muffler up. Then, you're going into what is called a custom exhaust system and none of them have been certified to my knowledge, and I'm not sure there is an adequate spark arrestor. They do handle the noise problem.

My point is, I still don't see where a piece of carbon that may get through one of these mufflers is going to burn up the Imperial Sand Dunes.

Harris: Yes, but suppose it comes out into my woods, then what?

Ham: Your woods - all right. Now, then let's get down to where we should use spark arrestors and start coming up with things like that. You're talking about a large number of vehicles that never go into your woods, never go any place but like I said, Pismo Beach.

Harris: Well, we could have a thousand of them every weekend. When they come to our gate and want to come in, we have taken the position we won't let them in without spark arrestors.

Ham: I don't blame you and so does the National Forest.

Harris: Well, what you are saying is there are places that should and there are places that shouldn't, right?

Ham: Right.

Sloan: It's unfortunate the way it's written. I agree with Bob very explicitly. I put a period after mufflers because I realize we're not changing these rules and regulations, but when you come up with a statement, a period after "mufflers" and a capital on "spark arrestors will be required where designated by an Authorized Officer," I would interpret this to mean that in the Imperial Sand Dunes, not a thing there would burn if you put gas on it, would be one situation; and where in the upper areas we have heavy brush or any place like that, you would need a spark arrestor. I'm sure in the mechanics we're really just adding input and we're not really in power to change. We recommend that type of change be made, possibly.

Edmiston: Let's take the position where I park my family car. If I park my family car on the Imperial Dunes, I probably am not going to start a fire. If I park my car on the grasslands inland, I might, unless we have specific regulations. How am I and my many counterparts to know that I'll catch it if I park here in the grasslands, but I'm okay to park it on the dunes?

Sloan: I think this is the point. The way this is now written up you have no choice but to go out and buy a spark arrestor for your family station wagon.

Edmiston: If I'm going to park it off the road - you bet.

Edwards: Not necessarily off the road, Beula. The way it stands now if you take any little ole trail, this is considered an off-road vehicle in your standard passenger car.

Sloan: As soon as you leave the pavement, theoretically.

Edwards: According to our definition as stated in here, the minute you leave an established road, then you're an off-road vehicle.

Harris: The record will show that the discussion indicates there should be some flexibility here. There may be times and places, seasons and conditions under which spark arrestors might not be required.

Kramm: This came up in the drafting of the Environmental Statement, and we answered this way. What constitutes quote, "a proper muffler and spark arrestor." Avoid misunderstanding that this should be defined in understandable, practical terms. We had requirements where it should not exceed the standards set for stock cars, but I think we ought to know what is required.

Harris: First, I would assume that under the last paragraph there was a statement that would apply on all State requirements, inspections and so forth. The State law does require the noise zones as far as mufflers and the size of the particle, I think, is four-thousandths of an inch carbon particles shall not pass. So, it's find.

Kramm: I wasn't aware of it.

Harris: It's State law. It's defined in the Public Resources Code. Any other comments on this? Did you have any other discussion on (a)?

Sanford: I didn't want to get ahead here, but under (a), the one we were just talking about, 6295. I don't have any objection to (a) as it stands. I have objections to 6295. This is .1 on page seven, "Operating regulations." I would like an explanation of what this really is. I'm not sure what is meant by a person 21 with a valid operator's license. There is nothing in the State Vehicle Code that requires an operator's license for off-road vehicles, whether it's being used - any vehicle being used in an off-road capabity. This is the only requirement.

If I recall, three years ago on the 18th of February there was an item published in the Federal Register that said that the laws that prevail upon, in any state, which lands administered by a public agency that fall within the rules and regulations governing the use of vehicles on those lands, and so on, would be consistent with the State Vehicle Code.

However, now we're saying something that's different, I believe, that's already in the Federal Register.

Sloan: There is another interesting point here that ties in with Russ's. It is a simple fact for that individual to get to where he's going he almost has to be with someone who has an operator's license unless he lives in Palmdale and can go up and down the back yard, but he can't even transport your vehicle - in Bob's case a dune buggy, to the Imperial Dunes - without having some other type of vehicle that gets you there. So, it's a built-in protection type of thing.

I am challenging more the age of 21. We seem to forget the fact that 18 is the legal age at this time. I think it should be 18 rather than 21 on that particular issue.

Harris: Russ, your question to me is not quite clear. Are you asking me a question or are we talking about what is required by the State, perhaps?

Sanford: There are several things wrong with this. I think the question has been asked as to what we mean by "accompanied by" or "supervised by." By "accompanied by," does that mean that that has to be on the back of the kids minibike and when the kid rides, dad stands off and watches the kid or does dad have his own bike and ride alongside the kid?

What about a minibike race. They have a lot of things like that where kids on minibikes are in competitive events where there are mostly youngsters and the fact there is some person there that is 21 years or older, does this mean they are under his supervision? What's his responsibility, what's his liability and this sort of thing?

How many people can one person supervise? This is really what I would like to know. If we haven't spelled it out, and it is open to individual interpretations where one ranger may issue a citation, whereas another ranger may look the other way. I think this has to be defined very thoroughly.

Harris: Well, Russ, when you're writing the manual on this, you might keep in mind how many kids - how many feet they ought to be away and this type of thing.

Sloan: That's actually the legal age and as George points out, it's not 18 throughout the Nation.

Kramm: Why not leave it, anyone who has a valid operator's license?

Sloan: Is that really necessary, though?

Sanford: This is the second point I was raising. Why does a supervisor or accompanying person have to have a valid operator's license? Maybe some guy doesn't drive a car, maybe he's never gotten a valid operator's license, and maybe he's 45 years old. Why is that qualification there?

If you attend meetings of some of the environmental groups that I do, you'll see there is a move on to require everybody to take training in the operation of all vehicles. And I think this is probably a part of that off-shoot where everybody is going to say, well, now look, you've got to know about the safety features of operating these things; and the assumption is, I suppose at least from the discussions that I've heard, is that people who are licensed will probably go through some training and demonstrate that they can ride a motorcycle, a car or whatever it is. And I suspect this is, in fact, in back of it.

In fact, I attended a conference in San Francisco and they are developing legislation along these lines, and I suspect that maybe some of those people get in the act somewhere. I think this is something.

Harris: Right.

Sanford: I know how they got in there, I don't think it's right.

I think, for instance, in the State of Kansas, if I remember correctly, doesn't even issue an operating license. What is to keep a person from Kansas who's visiting in California and lets his son ride his minibike?

Edmiston: It might have a lot to do with it. I have visited with people where the adults were sitting in the camper playing cards with seven youngsters out on dirt bikes, minibikes, anything with a motor, and they said the kids came in and it was time to eat and they made so much noise they wished they didn't.

Harris: That's real supervision.

Edmiston: Now, I would like clarification, too. I would like to see a heck of a lot more supervision.

Harris: Ron, did you have a comment? And then George.

Sloan: It was along the same lines since we're on the 6295.1 and it ties in with Lou's statement. I agree and both disagree. Number one, the age requirements, if there is a permit issued for an off-road race or a rally, then the age requirement bothers me, and also the established speeds.

Now, the reckless or careless or negligent manner doesn't bother me; being under the influence of alcohol or drugs doesn't bother me, but where you have an established event, or a permit has been issued, there is no speed limit. And if they are sanctioned and they have been authorized a competitive card, many times there is not an age requirement. It comes under capabilities. So, my question is - you can't make it a broad statement answer either. Does the operating regulations apply to an organized event? Now, I look at it and say, well, yes, part of them should and part of them should not.

Harris: Of course, I suppose in this permit you might establish the speed limit at 500 miles an hour and it might cover most of your people.

Sloan: Excessively, yes, but the age group, we have kids that are quite capable and more proficient than some of our people over 21.

Harris: I think this is certainly true and you should keep this in mind, Russ, the age is not the only thing. We had a little kid that was being supervised by his brother, a little kid that had a brand new minibike and the brother had a 250 Yamaha and we have a hill we call Long Ridge Trail. It's a mile from the bottom to the top with loose dirt and very few people make it. So, anyway, the first time they are there, the little kid with the minibike went up and about halfway, the older boy faulted. So, the little kid kept going up and he didn't get back and didn't get back, so just before dark we sent out a search party and we found him way beyond the top at a lake enjoying himself running around the track. Many times little kids are good, but they still need supervision.

Where are we now? Al?

Kramm: 6295.1, item 5.

Harris: Item 5, "During darkness without lighted headlights and tail lights".

Kramm: Well, there should be some sort of an emergency clause there to allow limited operation of a vehicle to a place of repair in the event there has been damage to headlights or tail lights. I think this would happen on a race, would it not?

Sloan: Yes. Again, that falls under the organized event thing category. If you break a headlight you are going to pay hell getting in. Depending on how far you are out.

My biggest concern in the organized event category, there are certain things in here that are not applicable. That's the crux of it.

Harris: This is certainly true. I think we have to agree in the permit that this would certainly be a negotiable situation, but you don't just want to cut it off.

Stanley: I think you have to realize that these provisions and whatever it is, 6295, don't apply if you have a permit.

Sloan: Well, that's the part that bothered Lou because his statement was, then you can smoke and drink and twist them up and do the whole thing.

Stanley: Again, you are going to be regulated under the terms of the changes in 6295 that are spelled out in the permit, but 6295 by its terms doesn't apply because you are not using off-road vehicles defined in the definitions.

Sanford: Just so that I'm not nitpicking on this bit, the headlights and taillights are plural here. On the motorcycle, for instance, you only have one of each. Maybe the "s" should be in parens.

Harris: Mike?

Hinshaw: Would it have to be an event or could we be out fishing or hunting? If I were to dump my bike on the way back, and break my headlamp, am I supposed to push it back in?

Harris: Yes.

Hinshaw: What type of a citation? It's the same as if you are on the freeway and you don't have taillights, your fuse blew out for some reason and you are given a citation, equipment citation, to have it fixed and you show the Department that you have fixed it and you are usually not fined. But it's a provision that you do get the darn thing fixed. That doesn't bother me so much, but there should be an emergency clause.

Harris: My suspicion is that in the administration of these things the regulations will be either good or bad, depending on how they are administered. We'll assume that a fellow who sees that the headlight or taillight was recently broken, he is not going to give you the book; whereas, maybe you didn't have one, then you might be in a little greater trouble.

John Clausen: Many times in years past I have been out on the desert on a machine that has no headlights. The present one I have that's out on the front of my camper, does have, but many of the machines do not have this equipment. They go out there and break down and they might not be on an authorized or permit event, may just be out there riding, in which a good percentage of those riders do, they break down and they've got five or ten miles out on the desert and they have to get back where their vehicle is parked. There should be a way they can ride that back in to get their chain fixed or any other minor repair they might have. I have ridden mine at 9:00 at night without a moon and followed a trail at a very low speed and I got back very safely. If I had to walk, I wouldn't have made it out that particular night and it gets pretty cold out there, believe me. You may freeze.

Sloan: Hildamae and most of her friends can put this to bed because I don't think they are going to have enough rangers to catch individuals coming in without their headlights, to be very honest.

Harris: Well, my own opinion is there ought to be a rule to have them, but it can be handled administratively by reasonable people.

Sloan: I'm just pleased to see that it's during darkness. They may just as well have said you have to have headlights and taillights all the time.

Harris: We're still on 6291.1 and it refers to 6295. Okay, are we ready for (b)? That, of course, refers to 6295. What about (c)?

Allemond: Yes. Part (1): "to explore or develop public lands for minerals pursuant to the United States mining law." This seems to be a loophole. Shouldn't this be under a permit?

Harris: The question is: Should exploring for minerals be an exemption or should it be under permit.

Stanley: I don't think we have any choice. The mining law specifically provides we have to allow this type of access and any regulation which the Department could put out could not ever go contrary to what the Statutes do, in fact, say. So, this is an exemption by necessity, really. I think it has to be there.

Harris: How loose a loophole is it?

Stanley: It's a pretty loose loophole.

Harris: Now, can Beula and I go out any place we want and say we're out mining? Do we have to get a permit ahead of time or notify you or can we just go out any time and say we're out mining?

Sloan: We can apply for an off-road mining business.

Harris: Well, it looks like we got our answer right there.

Penny: May I ask Burt, does that also apply to (2), the oil and gas exploration activities?

Stanley: I don't think it does.

Harris: It looks like there is a loophole. Perhaps anybody would just go out and say they are out mining.

Edwards: This is a point I wanted to bring out - just exactly like he said. Now, we have a designated area that is closed and that's all this pertains to are areas that are closed, but I decide, or a group of us decide, we want to go into that area and see what's there.

Harris: You just go mining.

Edwards: We bring our little pick hammer and our knapsack to collect specimens and if we are stopped, we just say we're prospecting.

Harris: Looks like an interesting loophole.

Sloan: A very valid loophole as Del Vail is quite aware of when sometime back he made his trip to Washington and unfortunately because of the mining laws, it was not changed; but I'm sure if enough of us, like District 37 is a prime example, and we're all out exploring minerals and mines on our Sunday-day-out type of situation, the loophole would come to a pretty tight knot pretty rapidly.

Vail: George, this was put in on the first cut on the proposed regulations and the Department cleared it. It was the Department of Commerce that kicked it back and it was actually a hold or kind of a stand-off and it went back to the White House and then it came back and said that these regulations pertain to recreation vehicles and not to the miners, the mining laws and so on, as now expressed.

Harris: Where does that leave us?

Sloan: With the loophole.

Harris: It looks like we're all going to become miners. Okay, let's hear a few comments.

Edmiston: Mr. Chairman, I think we have a real problem we should face up to because it is being used, to my knowledge, must exactly as you said. You put a little pick hammer in the vehicle bag and you're off. What are we as a group, or individual, going to do, and how can we be helpful in closing this loophole in this period of comment and consideration? Let's face the problem.

Sloan: All right. I think there is one aspect as a practical matter that isn't quite as much a loophole as it may first appear. The Bureau of Land Management does have the power to classify these lands not open to mining under, you know, some classification. And as such, a person has no business mining.

Penny: That means withdraw.

Edmiston: That's not a solution to this problem.

Stanley: It's a complicated solution.

Vail: If you think it's hard closing it to off-road vehicles, try closing it to mining.

Edmiston: I think this is something we should face up to, all of us. None of us want things that are bypasses of a rightful regulation. How, I wish I knew. I'm asking.

Vail: Support the Organic Act.

Edmiston: Right, that's what I was hoping for.

Harris: How does this take care of it?

Vail: There are provisions.

Penny: I don't know whether it's under the Organic Act, or not, but legislation was introduced last year amending the mining law, which is what Del was referring to. But, it wasn't in the Organic Act last year, it was in separate Bills and I'm not sure how it's been introduced this year, but nevertheless that's the idea that Del is talking about and that is there has been legislation proposed amending the Mining Law of 1872 that would require permits for exploration and this sort of thing.

Harris: It seems to me there should be a permit for exploration.

Edmiston: That would be a valid reason for a permit. I know the word "bona fide" was used in describing it, I don't see it here, but a bona fide mining claim, I think if there is really a reason for exploring minerals, there would be a legitimate reason for a permit.

Straugh: Where do you see the word "bona fide?"

Edmiston: I didn't. It was verbalized. I did not see it on my copy, but I made a little note here to possibly get that into the pay dirt rather than just the verbalization.

Harris: George, what about some of your rock hounds?

Strauch: Well, our rock hounds as organized groups are not a problem in this respect, but these individuals, they are a problem right now. There are people who are rock hounds who are not affiliated with rock hound clubs.

Harris: Would your group, say, object to having a requirement to have a permit to explore and develop public lands for minerals?

Strauch: I don't want to say. There is a lot of controversy on this right now.

Harris: Al, what would your reaction be to a permit system?

Kramm: We don't want a permit system.

Harris: You don't want a permit system.

Kramm: On amateur, non-commercial collecting of rocks and minerals, but we do believe --

Strauch: Who is "we?" Who are you speaking for?

Kramm: The Western Rock Hound Association at this point. It's a National organization. We believe that a permit system for the commercial part for the industry is in order because people are taking rocks and minerals in commercial quantities and they are selling it for a profit. We feel there is quite a distinction between an amateur hobby which serves the public use and the public good as compared to the commercial-wise profit-making type of enterprise.

Strauch: Now, are you speaking of people who are developing minerals commercially or who are catering to gem and mineral collectors?

Kramm: I'm talking about everybody or anything on a commercialized basis of acquiring minerals and selling them.

Strauch: There are people who acquire minerals on BLM land and sell them to the public and they are not commercial minerals, but they are cutting and polishing these materials. I know that because I've seen it in Arizona and Al knows it, too.

Kramm: That type of person needs regulation. Once that type of person is regulated, the hobbyist or the amateur who goes out there and picks up just a few and uses it for himself, he doesn't intend to resell them, we don't believe.

Strauch: This whole thing is covered in Title 43, but the BLM can't do anything about it, or hasn't been able to do it so far.

Actually, the American Federation of Mineralogical Societies and the Regional Federation have been waiting to see how this will be implemented. I mean, that's why I haven't brought a lot of this up because this is an Off-Road Vehicle Advisory Council, it's not a Council to formulate regulations for collecting gem and mineral specimens, I mean, this is something that

will probably come up in the future, and actually, that's why I'm sitting here, not because a lot of our people have off-road vehicles, but because we're going to get more involved in this collecting in the future.

Harris: Well, it appears, if I get the consensus right, we do have some agreement that there needs to be a regulation of this loophole to the end that there should be a permit system for this commercial type of activities, is that correct?

Edwards: There was only one other point that I did want to bring out, and I might ask Del and some of the District Managers if they foresee this possibility that there would be any in-holding within a closed area?

Vail: Yes, very possibly.

Edwards: Then, the question would arise, how about a real estate agent that is an agent to dispose of some in-holdings in a closed area, would this be on a permit system or something of this nature that he can take a vehicle to show prospective clients these in-holdings, or something or other?

Harris: Mr. Solicitor?

Stanley: We will know that answer as soon as the Ninth Circuit Court rules. They've had this under submission now for about a year and we're expecting something any day.

Harris: Okay, where does that bring us, down to (d)?

Strauch: Can I go back to (c) a minute?

Harris: Let's go back to (c).

Strauch: This (1) where it doesn't apply to exploring or developing public land for minerals pursuant to the United States mining laws, well, actually if we were really to get into this thing we're opening up a whole new can of worms, and I don't think we can do anything about it right now. It's something that's going to have to be done in the future.

Kramm: I would like to recommend that we just get out of that can of worms and leave it or drop it here.

Strauch: And not involve ourselves in this now because there isn't anything we can do about it, but we are going to have to be involved some day, right?

Harris: All right, let's go to (d), then. Anything on (d)? How about "Classes of Designations." Public lands designated as follows with regard to Off-Road Vehicle use and "Open Use Areas and Trails."

"These are areas and trails where an "Off-Road Vehicle might be operated without restriction subject to operating regulations."

Any comments on (a)?

How about "Restricted Areas and Trails."

"These are areas and trails where the use of Off-Road Vehicles are subject to restrictions deemed appropriate by the Authorized Officer. Restrictions may limit the numbers or types of vehicles allowed, times of use, and similar matters. Restricted areas or trails may be designated for special or intensive use, including, but not limited to, organized events."

Any questions on (b)?

Edmiston: Yes. Regarding, again, the guidelines for "appropriate", how are we to know what will be the appropriate thing?

Harris: Well, we would suspect that before the regulations go into use there would be more details and criteria than we have now. Who wants to comment on that? Mr. Solicitor, what does "appropriate"mean? How, that means according to the Authorized Officer. Who is who?

Stanley: Well, the Authorized Officer --

Harris: Is that the District Manager, is that the State Director?

Stanley: In this particular case it would be the District Manager, depending on the designation here, but I think insofar as "appropriate" is concerned, really, the guidelines are going to come down from Washington as to what he can do and what he cannot do. He's also going to be subject to requirements of the National Environmental Policy Act, which is going to severely limit what he can consider as appropriate and not appropriate, you know, what he can do in this area. Basically, it's his own good judgment, though.

Penny: Well, may I just make a little comment on that? I would assume that what "appropriate" means is you go through the process of designating; and if you will notice here a little earlier it mentioned the use of the Bureau's planning system, or the public, or the Bureau's planning system, and we have pretty specific procedures that we follow and we take this and make determinations

and regulations of conflicts and this sort of thing. So, it means going through the entire planning process that we have and from that we make a decision. Finally, it's the decision of the Designating Officer that says this area should be closed, should be restricted or other things like that. This is considering wildlife or topography or whatever it may be. So, he has to accept that responsibility and, I think, it's his decision to make a determination.

Ham: I was going to wait, but I think we have gotten into the next section where "the Authorized Officer may redesignate at any time". Who is the Authorized Officer? It still isn't clear to me. The Solicitor tells me it's the District Manager.

Penny: May I answer Mr. Ham's statement here?

Getting back to your reference to the public participation in 2.4(a). Again, it refers to the BLM planning system. It's provided in there. It's within the Bureau's procedural manual structures, and it's very definite.

Birch: I think it follows in that same section specifically in making designations that he will consult with interested groups; specifically said he will consult with these groups.

Harris: Okay. Now, what about the closed areas. "These are areas and trails where the use of Off-Road Vehicles is permanently or temporarily prohibited." Any questions on that?

Sanford: Just as a side question, with respect to both restricted and closed, I know that the intent here is to govern and regulate the use of off-road vehicles, but is there any comparable legislation aimed at other types of public land use other than off-road vehicles? Along this line I know, for instance, that when a troop of Boy Scouts walked through a wet bed if causes much damage to the terrain, same as, perhaps, the off-road vehicles.

Harris: That's certainly true.

Sloan: I might be able to answer a portion of that. In Washington, and I'm sure the Bureau is possibly aware of it here, they are working at the present time on programs that takes it not only to weekends where only the off-road vehicle guy is the only guy being hit with the organized rallies and events and this type of thing where the public is discriminated against over quite a period of time, but there are programs at the present time that will take in the back-packer, the hiker, again, in organized groups.

Harris: If you want to interpret the Environmental Impact Protection Act of California of 1970, almost anything that requires permission, not necessarily permit, but even permission, requires an Environmental Impact Statement. And certainly it would seem to me that groups that are interested in this environment will go along with this thing to require this thing from any group activity. So, it will not only apply to off-road vehicles, it will apply to any destruction of resources.

Okay, 6292.2 "Designations," (a): "The Authorized Officer may designate any public lands as restricted or closed to off-road vehicle use. Public lands not so designated shall remain open to off-road vehicle use and are hereby designated as open use areas and trails."

Now, is there anything that's not designated or restricted or off-road is open? Ron?

Sloan: This is kind of a dirty question, but it has no real bearing on the rules other than the fact that thinking of a controlled type

of situation, if we read this exactly as it says at the present time, without designations at this time, most of the areas are open and we have read them to be open right along. Nothing has been closed that my notes show of, there may be one or two others, but is there any policy or any move afoot to close everything and then gradually open it? That would be a real shocker to the off-road vehicle user at the present time. It would be the easiest way to control to obviously shut everything and then open it selectively. I would hope not to see that and I hope there is not that type of management procedure for us.

Harris: Russ, is that what you have in mind?

Penny: Well, that's not what I have in mind. I know of no one else.

Sloan: Good.

Harris: Del, is that what you have in mind?

Vail: What Ron may be referring to, there was an article in Cycle News saying that the East Desert was closed to off-road vehicle use. It's an erroneous statement. Kicking it around with our Planning Section, and with our environmental analysis requirements and so on, we are holding down the number of organized events in that area for several reasons. One, I'm incapable of preparing sufficient environmental analysis to allow organized permitted events in the East Desert right now. That and what was put into Cycle News is two different things. There was not any intent to close it, it's just a fact of life that I can't do all the things I have to do to allow some organized permits in there.

Harris: Ron, it doesn't sound like an organized campaign to close everything.

Ham: Howard, can we direct this question to Neil Pfulb, inasmuch as he is forming some type of a study, and we haven't really gotten an answer to that particular question. Is this, in fact, what is going to be the end result of the Desert Planned Study?

Pfulb: You mean the question that Ron asked? That is, follow the procedure of, say, closing everything and then gradually opening it? That isn't the technique that I invisioned as far as the planning process is concerned. I don't think it's implied in the Bureau's planning system. I think all of the designations that are in the regulations are optional. They'll all be used to what degree. At that stage it's hard to say.

Ham: Then, at this point your plans are consistent with this statement that "public lands not so designated shall remain open?"

Pfulb: Certainly, yes.

Harris: Al?

Thomson: Apparently there was a release issued by the Bureau. It appeared in the press telegram. It says, "A BLM spokesman said that if the regulations are adopted, about 60 percent of the land would be restricted, 20 percent closed and the other 20 percent open for off-highway vehicles."

I am wondering how this proportion was arrived at, or knew enough about the land to really make a statement like that.

Harrell: Well, I was the only person in the office and I answered the telephone and this kid says, "Well, what proportions are you talking about?" He was from United Press, and I said, "Well, you might be talking about 10 percent, 80 percent, 10 percent. You might be talking about 20, 60 and 20, really. We don't know until we go through the planning process."

Harris: So, he picked one of the sets of figures.

Harrell: He picked out the one he liked best and that came out in the story.

Kramm: This gets all of us a little disturbed.

Harris: Apparently, the question is not solved. Jack?

Edwards: I would like to ask Del another question. Del, if you don't have the capabilities of preparing these Environmental Impact Statements to allow these events, what you're saying, in essence, is that the area is closed to organized events until such time as you have the manpower, or whatever, to come up with the Environmental Impact Statement.

Vail: It's not closed to off-road vehicles.

Edwards: Just the organized events.

Vail: I'm not capable of issuing a special land use permit in that area.

Penny: I would like to add a little bit to what Vail says. Vail is under directives from the Washington Office that he will not take an action on a permit or a license or anything like this, without an environmental analysis. You must have the adequate data and this sort of thing to come up with the proper environmental analysis. And in the event that you can't, you won't take the action.

Sloan: I don't agree with them in not allowing organized events in the Eastern Desert, but I do know that the requirements by law that he has to live up to just throws us into one heck of a tizzy until he has enough people to go out there.

Edmiston: I would like to say that the Desert Protective Council thoroughly appreciates the fact the Bureau of Land Management is minding its legal business in making these impacts before taking action and authorizing these events; otherwise, all environmentalists have every reason to scream, and they should scream, every citizen should. We're glad that it is being systematically done and if there is a little bit of cost in money or delay, that's a very small matter in comparison to the environment.

Harris: The thing is, if they are not complete, they are not adequate, the public can come along and delay your project just by saying, well, this report is not complete and if it isn't the court will have to agree and you hold up the project. So, a person is foolish in not going along with the Impact requirement.

Vail: There are some existing areas out there where we have already prepared these things, such as the Barstow to Las Vegas race, the Checkers race, and Mint 400. We've done this. Any race in that area I'm already covered on, but any new ones I just can't possibly meet them.

Harris: How about the Authorized Officer may redesignate. Any questions on that? I assume we use the same guidelines.

At the top of page six, "Designation Criteria." "(1) The ability of the land and its resources to withstand and sustain off-road vehicle use impacts. (2) Consideration of the scenic qualities of the land, and its cultural, ecological, and environmental values. (3) The need for public use areas for intensive recreation vehicle use."

Edwards: Was there a specific reason why the words "or trails," was left out of that? It's up at the top: "Designations of restricted and closed areas and trails," but in (3), the words "or trails," has been omitted.

Harris: I would assume that an incentive recreation vehicle use area would include everything it did within the area. It might be race tracks, it might be trails, it might be roads, might be picnic areas, might be service stations, might be restaurants, anything in connection with it. So, it would seem to me the areas would be inclusive of anything that happened in there, whether it was a road or a trail.

Edwards: Well, I have a lot of reservations about this assuming business.

Harris: Would you like to write in "trails and roads" someplace?

Edwards: I would definitely like to see all trails in that.

Edmiston: I don't agree with that.

Harris: The need for public use areas or trails. How about roads? How about restaurants, or what about other things?

Okay, it's an interesting comment. Anything else on (3)?"(4) Consideration of the impact on other lands, use, and resources. (5) The potential hazards to public health and safety, other than the normal risks involved in Off-Road Vehicle use." 6292.4, "Procedures for Designation." "Public Participation."

Thomson: I have a series of questions. Some of them refer back to the previous one, but I think it's appropriate here. I don't know whether we answered it thoroughly enough. Who is the Authorized Officer, who appoints him, who delegates the authority to him and to whom is he responsible?

Vail: It's in the "Definitions."

Penny: Yes, I would like to answer that. The procedure for delegation of authority is set forth by an order, for instance, from the Secretary to the Director, and then from the Director he has an order delegating responsibility to the State Director and on down to the District Managers as such.

And, for instance, my delegation order authorizes me to delegate certain responsibilities to the people under my direction, or to withhold certain responsible actions on this sort of thing. So, it's the State Director's responsibility in this instance to say that the District Manager will be the Authorized Officer, or it might be we'd had the area manager be the Authorized Officer, but it's just following a system of delegation along those lines.

Kramm: What recourse does a grieved party, or parties, have with respect to rulings of this Authorized Officer?

Penny: There are recourses under the Administrative Procedures Act. There are systems of appeals that are quite standard in terms of action and you may make a protest to a decision to the District Manager and then extend it up through administrative levels. That applies to the actions of the Bureau.

Sloan: It's quite a long and lengthy procedure, but it certainly can be done. Section 1840.

Kramm: Well, it says here that the Authorized Officer who will consult with interested user groups as he deems appropriate. And there seems to be no provision for notice or for hearings or for general public input or participation.

Harris: In what, in the "Designation?"

Kramm: It says that the Authorized Officer will consult with interested user groups, but in this statement it doesn't say that as he deems necessary, it's up to him whether he wants to, but there is no provision to give notice, or public notice, or for hearings, or to invite general input participation. It seems like he doesn't have to go and consult with user groups, it says he will or as he deems appropriate. So, I think that would be rather arbitrary.

Sloan: I'm reading it differently. "The Authorized Officer shall," which is mandatory.

Edwards: You still have to consult with the local landowner or agent.

Strauch: It says, "he will consult with - and other parties as he deems appropriate."

Edwards: Well, what if he deems it not appropriate?

Harris: Well, then he would still have to consult with other parties; "user groups, Federal, State, County and local agencies, local landowners" if he deems it appropriate.

Edmiston: Would it help to say "and with other parties as he deems appropriate"?

Harris: Well, would you feel better if we just crossed out "as he deems appropriate"? If you don't name them, how can you ever keep the man happy. They'll say, oh, my goodness, you forgot to consult with me.

Ham: Let's take Beula's suggestion.

Penny: I think the point here is the public is so different in different areas and they just aren't the same. And he has to have a great deal of latitude in getting to the particular public that's going to be interested in making a particular decision, and also an approach as to how it should be done. It takes a lot of skill in there.

Sloan: There is one area that was of concern to me in Al's statement and I think it's a very valid one, the other parties, he has to consult with those others, but the part that bothers me is the effect of not knowing and this is where we served the public notice.

Now, let me ask a question in that category. I would assume under your normal planning procedure as Neil Pfulb did on the Desert Plan, that it was advertised that there would be a meeting held. Is that in your normal method of public participation, or would you feel that you just would call in ten people and that was sufficient to cover it, or does that go to a public type of situation?

Penny: No, the Bureau's planning system provides that the interested public is determined, and a meeting arranged. He reaches a point of trying to determine what the resource are, what the uses are and what the conflicts are, and then he goes to those people that can help resolve this. Generally at some point along the line he'll issue a notice in the paper for a public meeting so people can come and express themselves. I don't think there is ever an instance where we don't do that. Do you know of any, Neil, where we will have a public notice out - in any event, the public will come and participate. And in addition to that, however, we do much more, you know, through individual contacts and a great number of ways.

Edwards: Let's say you had a hangup or something where it was bothering you in the field of plant life or something or other. Well, now, the vehicles would be related to this, but if they called a meeting of conservationists to determine what the thing was, then he would say, well, it's not appropriate that we talk to the vehicle people because this has got to do with conservation or something.

Penny: I think the big point here, again, is that matter that I think everybody has referred to as the part that says "as he deems appropriate". And it's just a fact and I don't think you can spell that out, because, again, that's not what he said. "As he deems appropriate," are words referring to other than interested user groups, Federal, State, County and local agencies. There are many other types of groups and interested people that he must contact. I don't think he can be that specific because it's just different. Almost every decision he's going to make will be different.

Kramm: I would like it to say ample public notice. I would like to point out that here is a ruling by the Department of Defense on special recreation use fees, and it says in here, "It is impractical and contrary to public interest to give more than 15 days for public participation." And 15 days - well, it took eight days to get the Federal Register from Washington, D.C., and here we have seven days to answer. I think that we need ample time and I don't believe the Department really knows who's interested and who the public really is. I think they've got to advertise it with ample time and to give ample time for a response for a notice of a meeting.

Edmiston: Is 30 days ample?

Kramm: No. I think generally about 40 days to 45 days to 60 days. It depends, of course, on the matter that is involved. The 15 days is too short.

Stanley: My advice to Russ is going to be that before he makes any kind of a designation on this, he's going to have to comply with the full Environmental Impact Statement.

Penny: Are you speaking of the designation of Authorized Officers?

Stanley: Before designating areas as being closed or restricted areas. We're talking about all the public participation and all the meetings. I think this is certainly a significant Federal action under the Environmental Impact Policy Act. It's going to require a full-fledged Environmental Impact Statement.

Penny: I made the statement, Burt, the Bureau must make such analysis on every action it takes, significant or otherwise, period.

Stanley: I just mean a full-fledged statement, not just an analysis.

Penny: I said analysis. I'm going farther than you said. You said a statement and I suppose this may or may not be so. I don't know whether you people know the difference between a statement and an analysis, but those who don't, making an analysis and then if the problem is sufficiently significant in terms of interested people and such, then, you can go ahead and make it into a statement and publish it in the Federal Register. People may make comments on it, and this is what Burt is talking about.

Lunch Break

Harris: All right, where are we now? 6293, what about that? "Organized Off-Road Vehicle Events." "No person or association of persons may conduct any race, rally, meet, contest, or other type of organized event involving the use of Off-Road Vehicles, on public lands without first obtaining a permit to do so from the Authorized Officer pursuant to Subpart 2924 of this chapter." Does this mean any number of people? It says "persons." In other words, one person has to get a permit?

Sloan: That's the question.

Harris: If one person went on a picnic, he would have to get a permit?

Stanley: For organized off-road events it used to be 25 or more required.

Harris: There is no number. You had 25 vehicles, but is says "no person." How can you have an organized event without one person?

Stanley: Well, I'd say there would have to be at least two.

Harris: Well, it says, "person", you know. A question has come up. Well, in the details of this thing, suggest a number, perhaps?

Stanley: I doubt it very much. I think this is probably the more flexible standard, and I think it's going to be up to the State to pick their own number.

Harris: Well, what I mean is, will the State be authorized to have a number in mind?

Stanley: I don't really think so. I think what that regulation is designed to do, where we set 25, the State of California has an arbitrary cutoff figure of 25 on these regulations. These regulations now say there won't be a raise of any kind. Now, as a practical matter we may say, it's probably not a raise if it's under 15, or if it's under 10, it is not an organized event under 10, but we may set up an arbitrary standard that way, but it's clear to me that the importance of these regulations is saying that any organized race or event does have to have a permit.

Kramm: What is the Subpart 2924. Says "pursuant to Subpart 2924". What's that?

Sloan: That's the special land use permit form. That's Section 2920, really.

Edwards: 2924 relates to sports events.

Harris: Right.

Edwards: Races and so on.

Kramm: Does that say 25 vehicles in that?

Stanley: No, it does not.

Kramm: What is this memo that was issued to you, Russ? That was reference to this one, 2924, which did mention 25.

Stanley: This was a directive.

Harris: Well, we have some interim regulations, do we not?

Stanley: Now, these are regulations and you should keep in mind that these aren't regulations with the same status as these regulations you are presently considering. These are interim instructions to other BLM officials as to what they should do. And the State Director has said that when there is going to be an event of more than 25 or more people, that BLM people shall require a permit before that event can be held on public land, but the directives operate only on BLM officials.

Penny: There might be a similar directive from the Bureau of Land Management.

Stanley: Right.

Penny: To implement these which might prescribe a number such as it is that you are mentioning.

Stanley: I don't think so, Russ, because this isn't phrased in the same language as 2924 is.

Sloan: That's what I was just going to question because this might satisfy Hildamae's problem if you just use 2924, because that is pertinent, the special provisions relating to permits for sports events, races and rallies are applicable to such benefits.

Then, there are additional requirements in one area here such as "each application for special land use permits for sports events, race, rally, meet or other contests or events are to be accompanied by three copies of the map -- and so forth."

Stanley: But this section says, "no person or association of persons may conduct --"

Sloan: "Organized events."

Stanley: The language in 2924 says, "The Bureau may, if it so chooses, require a permit under these circumstances." And we so chose to require a permit where there were going to be 25 or more vehicles, but this doesn't allow you that flexibility.

Harris: It just says to get a permit.

Sloan: It's not the choice of issuing the permit, but the event itself. 2924 is pretty much adjusted to sports events, races and rallies where this is just talking about in addition to the races and rallies or other type of organized events involved in the use of off-road vehicles. So, this is more --

Stanley: This is far more accompanying, yes.

Kramm: By what authority is this a mandatory procedure? What public law is involved, is that 92347?

Stanley: No, definitely not.

Harris: That's probably the Environmental Impact Law.

Stanley: If you look at the authority regulations themselves way back here on page three, it cites the Environmental Policy Act. In my opinion the crucial one is 43 USC 1201.

Sloan: What does "USC" stand for?

Stanley: That's the law. That's the Congressional enactment itself. That's the Congressional enactment which Congress has passed the law saying that Section 1201 of Title 43 of the U.S. code shall read as follows.

Kramm: Isn't this in conflict to the public 92347 which says in one portion of it that permits may be issued by the Agency in accordance with procedures and fees?

Stanley: Well, I don't think so because the 92347 talks specifically about areas of use, meaning improved areas, contemplated areas of rather small ties. I don't have that right now, but we've gone over this and decided that 92347 did not apply to this particular type of thing and that's why these are necessary. If 92347 did, these would no longer be. We wouldn't have these at all for us. We'd be operating under the regulations under that Section and you'll notice that these Sections are cited for authority for these regulations at all.

Kramm: If you read 92347, it seems like that Congress is saying to the Management Agencies, that if the Management Agencies are out any expense for the provision of a facility or a service, users of public land shall pay that expense.

Stanley: That's right.

Kramm: They are not saying one can charge a fee or get a permit when there is no specific facility or no specific service. It doesn't seem to me that the Agencies have this authority.

I'm a rock hound and I belong to a rock hound club. We take, oh, 30-40 people out maybe and have 10, 15, 20 vehicles, we camp somewhere on public land. There are no structures, we don't need them, we're self-contained. Does that require a permit?

Stanley: Yes, under these regulations I think there is no question.

Harris: Of course, you shouldn't make it an organized event. They all happen to arrive there.

Edwards: The wording of this Subpart, this 6293, does not conform to 2920 - Section 2924.2, additional requirements; originally cited as your authority to require permits for races, rallies, and special events. We're assured by the Bureau of Land Management that it was their intent to apply this Section only to those races, rallies and special events that were of commercial interest and involved 25 vehicles or more operating over a defined course.

The wording of Subpart 6293, now opens the door to all types of organized events involving the use of off-road vehicles and places no limitation on numbers or types or kinds of vehicles that will be required to obtain a permit.

By definition, Section 6290.0-5, almost everything except the family lawnmower and wheelbarrow is included in the off-road vehicle. We would interpret this Subpart to mean two or more persons who have prearranged an outing on public land, regardless of the vehicle to be used, who does not intend to limit their activities to State, County or municipal highways and roads, Section 6290.0-8, must obtain a permit.

It is not our intent to nitpick the regulations, nor is it our intent to deny that the inevitable, that some regulations are necessary, but if we are to abide by these regulations, they must be clearly stated so there will be no misinterpretation of the intent, now or in the future. Therefore, we would recommend that this Subpart 6293, be rewritten to include your original interpretation and intent for organized off-road vehicle events.

Harris: I thought that 25 was not a Federal regulation. These are Federal regulations, so we don't rewrite the Federal regulations here, although you might suggest amendments to it. In other words, if it's in conflict with something when we came up here, why then, of course, it would have to prevail. So, certainly your comments should be made to that.

Edwards: I hope these comments will be recorded as part of the record.

Strauch: Is "off-road vehicle event" defined anywhere?

Harris: The question is, is "off-road vehicle event" defined anywhere? This is what I asked in my question, does this include a picnic, or what?

Strauch: My understanding originally when we formed this organization, was to control off-road vehicle events. I know Al and I both feel that a group of rock hounds going out into the desert collecting rocks are not participating - they do not think they are participating in an off-road vehicle event. We're going to get a lot of static on this in the future if this is the case, because we have not informed our people that they are going to be involved in this business of getting permits to get an off-road vehicle event.

Harris: Well, if this were literally interpreted, it might fit more people that are going to be involved than we realize.

Mr. Solicitor, what is an event?

Stanley: I think that definition is really awfully broad, but you may want to say that this Council should make a recommendation that events are defined as events where the object is the primary use of an off-road vehicle, or the primary obvious use of the off-road vehicle, rather than enjoyment of some other type. That might not work, you know, an off-road vehicle can drive across the desert and it does as much damage as a primary object as a secondary object.

Harris: Well, how about saying where it might have a significant environmental impact, something like that.

Strauch: It was my original understanding that when a person competed in an off-road event, he used an off-road vehicle to compete in this event, not to watch birds or something like this. I mean if he drove his vehicle somewhere and got out and went and watched the canaries, he wouldn't be participating in an off-road event. So, I would like to see the term "off-road vehicle event" defined thoroughly.

Ham: I thought you were going to move on without getting into this, because what we're about to do with this thing is destroy the whole structure of clubs, which I think everybody here that works with off-road vehicles realize that organizations are probably the key thing in getting the off-roader educated and allowed to use proper techniques in using their vehicles.

We've got 80 small clubs in the association I represent. Jack here represents a similar association with, I think, more clubs than that.

Edwards: 165.

Ham: So, we're talking about over 250 clubs right here that are not going to be able to cope with this thing. One of the primary functions of the clubs I have been associated with is to plan to go out to a new area as a group. Now, if they have to file a permit, presumably they are going to have to have some idea of just exactly what type of course they are going on. So, we don't know, they're going out there to explore the desert. That's one of the things about an off-road vehicle, you like to go out and explore and find new areas. Now, if you have to go out there and say I am going here and I'm going to make this prescribed course, you are limiting it to places that are already within the realm of their personal knowledge and I just don't see how. The clubs

are going to wind up disbanding and going out there and running helter-skelter and we've lost one of the primary contacts with the off-road vehicle enthusiast.

Harris: The only problem, as I see it, the organized groups do the least damage.

Ham: You're destroying this whole thing.

Harris: It seems to me that what we're doing here is making a penalty on the people who least deserve it.

Edwards: We are unless we define this thing down to commercial interests or something of this nature. If they are going to make a profit off of the public lands, then definitely they should have to have a permit, but if they are not going to make a profit off of this, they are just out there for their enjoyment, this is altogether something different.

Harris: Maybe we should say commercialized organizations. Ron?

Sloan: Our club is totally nonprofit. We'll have a thousand entries each year. Last year we ended up with $400 when we finished, if you want to consider that profit, I guess it was $400, but what that does is pay to start next year's event. So, none of us could qualify ourselves as a commercial aspect.

Edwards: Now, when we hold an event we charge a registration fee for that event. Say, we only come up with a hundred bucks, that is clear profit. I can't see a thing wrong with giving five percent of that to the Bureau of Land Management.

Now, on the other hand, if I'm going out there and I'm going to promote, say, the Mint 500, and I'll take in $75,000 profit, I still can't see a thing wrong with giving five percent of $75,000 to the Bureau of Land Management.

Sloan: I think we're saying the same thing.

Edmiston: Certainly, the commercialized event should pay a permit, but on the other hand, I believe we're all here, I'm certain an Executive Order was given to measure the impact on the land, whether my posie pickers - and we're posie lookers, we don't have to pick, but if we are a commercial event or not, if we are having significant adverse impact on the land, that is a thing we're to measure. And if we just say commercial or noncommercial, everybody is non-commercial when it's tax time, and the thing to do is to take care of the land, that's our public heritage that we're here to take care of.

Sloan: That frightens me.

Edwards: I think we've got to take care of people first, and then the land.

Sanford: If we're going to limit it only to commercial interests, I think people that go to the desert to take movies and when they turn around and show these movies for profits, they would have to take out one of these use permits and pay the five percent, eventhough they never touch a thing, the fact they took a picture of it and showed it for a profit.

Ham: I would like to comment on Beula's statement, too. Beula, I think we're all concerned about the land, there is no doubt about it, but I don't see where a permit on a group of recreationists, they're getting together in a campfire situation and using their off-road vehicle. I think we've discussed already this morning, several different ways to protect the land. You've got three different designation categories and I don't see where this permit is going to further the objective any more by making a group of families come out and file a permit in advance. I think I share Beula's concern, and I think we've discussed it this morning and found a way of coping with it.

Harris: Let's face this other interesting thing, too. The law says or requires these Environmental Impact Reports where there may be a significant impact on the land. Of course, this might be a part of the solution. We're in the opinion of the group or in the opinion of the enforcement office, or the Authorized Officer, and there is no significant environmental impact he won't require a permit. And the fact that he has to get out in writing this Environmental Impact Report, it might just encourage him not to require a permit if Beula and I wanted to go out and watch the flowers.

Edwards: What you are opening yourself up to right here is just exactly what's happened in the Forest Service right now, and that is, you make a determination that there isn't an impact on the land and therefore you will release your permit on that basis and immediately you are drawn into court because you didn't file an Environmental Impact Statement.

Harris: Yes, you can win those if there is no environmental impact shown.

John Clausen: I don't want to bother the issue, but there are several places on the desert where 60 or 70 motorcycle club families go and these are people that don't leave a mess. In fact, they pick it up as they go.

If we go to a private piece of property adjoining the BLM land and maybe a hundred of us gather there on the old covered wagon roads and the kids ride around the private property, okay, but the rest of us take off and go down looking at that mining district and maybe we go down into the old dried up washes, maybe there are ten of them altogether that come out from that piece of private property, and if this is an organized event, each one of those sorties out from those private properties, in this definition, becomes an organized event, I believe. Is that not true?

Stanley: I disagree, that's not organized.

Harris: The Solicitor says he didn't agree. Do you want to explain that?

Sloan: I think he missed a point John. You didn't stay on the private property, but that was your headquarters and you took off from there into these areas.

John Clausen: Yes, on all these public land areas and some of them are miles away and ten of us go out to the pinnacles.

Stanley: The definition of organized event contemplates a thoroughly thought out excursion from point "a" to point "b" over public land and, you know, these aren't going to be covered under this. There is practically no way to cover all of them, but I really don't think that is an organized event under the definition of it.

Strauch: For a definition of an organized event I was told there was no definition of an organized event that said the such-and-such.

Harris: Let's face this fact that there is confusion in the minds of the Council in what we mean by an "organized event." I think we've reached the consensus there needs to be a definition. If you cover everything as broadly as apparently everything is covered, it probably goes beyond the real intent and yet it's pretty broad.

Let's take a look at that. Here is a man with his hand up back here.

Boll: There is a definition of the Special Land Use Permit Regulation of sports events, races and rallies.

Harris: That's the one that has the defined course?

Boll: No, it doesn't say much, but it means any outdoor sports event.

Harris: Well, I'd say we have reached the conclusion it needs clarifying, right?

Okay, let's go down to "Management of Off-Road Vehicle Use, Effects of Use; Changes in Designations or Restrictions": "The Authorized Officer shall monitor effects of the use of Off-Road Vehicles. On the basis of information so obtained, and whenever he deems it necessary to carry out the objectives of this Part, he may amend, revise, or revoke any designations or restrictions made pursuant to the regulations in this Part."

Kramm: There's hardly any point in talking about that if we can't even get on the land without a permit.

Harris: Well, let's assume you got your permit and you are there. The guy has monitored your effect and he has decided that you loused it up, so, on that basis he closes it.

Kramm: On what basis?

Harris: Well, there was an archeological site out there and you were running over the petroglyphs.

Kramm: Is there going to be a hearing?

Harris: I don't know.

Kramm: Is there going to be public participation to this closure?

Harris: I would say it would be completely arbitrary if it followed the guidelines.

Let's suppose that you have found one of these petroglyph things and you folks go out there and start chiseling off the thing for souvenirs. I would close it without a public hearing.

Kramm: Would you close it to all people or just to that one person? Are you going to punish everybody?

Harris: I would close it to everybody until I could put a fence around it, or something, to protect it. I think this comes before the people, frankly.

Kramm: I thought this is what the Bureau was going to do, to find out things they needed to protect and protect them.

Harris: Yes, but let's suppose they don't know all of this. The people get to using it and then they find it out.

Stanley: Number one, before we can proceed to close on this Section, he has to follow the requirements which we've already discussed in 6292.4, namely the public hearing section and if it involves a significant Federal action, of course, it would have to go through an Environmental Impact Statement which allows all sorts of public participation. In any case, you are going to get some. You may get a lot.

Voght: It says "the Authorized Officer shall monitor effects of the use of Off-Road Vehicles." And on that basis if he so desires, he can close it and that's according to his whim.

Edwards: This is what I want to know, what does "monitor the effects" mean?

Harris: He looks out and sees what's happening.

Grealish: If the races are restricted to a small area, the area of the race, well then, this person, whoever it is, can say there is significant damage which cannot be denied and they can close it and they've already got the other areas closed, then where do you throw a race?

Harris: I would say your analysis is correct. If the impact is severe enough to close it, you might want to have an alternate place.

Grealish: They are keeping them out of the alternate places and restricting them. Like in the Red Mountain areas in Los Angeles, race after race after race, then they go out there and point to that and say, look at all this damage that has been done. These guys are no good. Well, the basic thing that we want to know is what areas are definitely open so that we can rotate our races as the farmers rotate their crops and not destroy the land.

Harris: The point is well taken and you are entitled to know. The Bureau, on the other hand, is not all powerful that they can do this instantaneously. I think that's the problem and surely it will probably take several years to designate all the open places, I would think.

Grealish: According to this, though, as soon as they show there is significant damage in there, or in their opinion there is significant damage, in effect, it eliminates off-the-road racing on a recreational basis and do you agree with me that the recreation is what it's all about?

Harris: It depends upon how severe the Officer interprets the thing, of course. You are absolutely right, literally, if he finds the damage is severe, he can probably close it.

Pfulb: I don't think we should overlook the fact, it also says "on the basis of information so obtained." He shall monitor the effects on the basis of the information obtained. Now, that should also work the other way. We're learning about the resources of the desert and we may find, for example, that certain types of soil can accept more use. So, where it was restricted before, it would be opened up. So, I mean it could go either way and the whole principal involved is the learning process and using good judgment and information to make wise decisions with the resources.

Harris: Let's don't forget the Environmental Impact Report. Every action practically that you take has got to go through that public input and it seems to me there is lots of opportunity.

Kramm: I would like to point out once more that the definition of off-road would include everything on BLM land, and every time the vehicle, whether it's your touring car, as long as whenever it is off of the county or State road - in other words, you can be out there with a bunch of sedans and get off of the established county road into BLM land, or other agency land, and you are off-road.

Strauch: It seems to me that sometime back we went into what was an off-road vehicle, but we never did define this off-road vehicle event. And I would like to see "off-road events" files and put under the definition of 6290.0-5.

Harris: Yes, I think we can say we have reached that consensus. We certainly do need a definition of off-road vehicle events.

Tocher: You all have a copy of this and it might refresh your mind if you read it, but we define an off-road vehicle event.

Harris: How do you define it, by the way?

Tocher: We worked at it a lot here, this group here.

Harris: Did we ever come up with a good definition?

Tocher: Maybe not a good one, but it was a little longer than the other one. This was sports events, races and rallies. "Any type of scheduled, structured event which requires space, land, water and/or other resources located on public domain where the participants are usually competing for cash awards, trophies, points or other such rewards; any event where the spectator and/or participant is charged a fee to view or participate. This does not include small informal groups or family groups to planned relatively unstructured outings on public lands." Now, this was prepared prior to what came out.

Harris: In effect, we're saying in the ORVAC Committee, at least it doesn't cover every outing that we go on, but of course, I've reached this consensus that certainly this thing needs defining before you can administer properly.

Voght: I would like him to stand up again and hold that book up so you people can see the outside cover. Look at it. That's off-road. There's even a Winnebago sitting out there. You've got all kinds of trailers and campers, trucks, the whole thing. Those are all off-road vehicles.

Harris: If you broaden the definition of off-road vehicle, then you complicate the problem of what an event is. So, I think we're just going to have to face it that this thing needs clarifying.

Edwards: Well, what we're saying is, in essence though is, that it is contained in that.

Voght: We agree with that definition?

Edwards: That is not a regulation.

Voght: We still agree with that definition?

Harris: Well, it's certainly closer than just leaving it "any happening." However, it insinuates that there are fees and prices and competition and that sort of stuff.

Edmiston: That couldn't be taken. You see, we can't take something that was brought up or defined even nebulously, we never had a complete, you know, this is my definition, amen, and say that the Executive Order had to be molded into the image of our definition. We're working with something a little bit different than our original concept.

Sloan: The only unfortunate thing for that, Beula, is that the people that are involved in the writing of these regs, and even the Presidential Order, are not aware of the problems that are faced by the California BLM and the public lands that they are attuned to.

Edmiston: I think we all agree that we want a better definition.

Harris: I think we've reached this consensus that we need a better definition and certainly in your written commentaries and your written testimony at these hearings for that purpose, let's strive for that. We probably ought to go home and read that one and rewrite your own so that we hope that everything that happens is not going to be under one of these event permits.

Edwards: Yes, I did have one other thing. Now, I don't know whether this is pertinent to it or not, but some of the States are coming up with off-the-road or off-the-highway, whichever terminology you prefer, vehicle codes. The State Department right now is working on one in conjunction with the Department of Motor Vehicles. Now, what is going to be the relationship between these two, the State regulations and the Federal regulations that you might put in here?

Harris: Well, they were written out. As I interpret it, you are going to have to comply with the State requirement in operating and licensing them.

Edwards: I don't believe that says that in there, does it?

Harris: All right. Any other questions or comments? We are approaching the adjournment time.

Kramm: I don't see why we had an ORVAC Committee when we come up with a thing like that. They are not following anything we said. If people were to read back on this ORVAC Report No. 3, minutes of this meeting in which we discussed the details of, or the final ORVAC procedure or recommendations, why, there was nothing like that in here and I thought that we had come up with a reasonable approach to the control, proper control, of public land use. We have been working here for a couple of years and coming up here at our expense and giving a lot of our time and then all of this is thrown out. What's the purpose of it? What is the purpose of public participation?

Harris: Well, Al, before you got here this morning, this is kind of interesting because I had made the statement that I thought the person that wrote these had read the ORVAC Report.

We recommended, number one, that the public land be put into three zones; open, restricted and closed. They did that. They suggested that they take inventory of the resources in designating them; that they try to eliminate the conflicting uses, protection of the resources and that sort of stuff. I think you can say that this is what they've done. Certainly, they've left a lot out and some of the stuff they've left out is extremely important; such as the very definition of the off-road vehicle and the events which, of course, can louse up the whole thing.

Strauch: I certainly think that we did our job, because the way I understood it, our job was to make recommendations to the Bureau of Land Management and Mr. Penny, which we did. The problem we are getting into now is from a higher authority, but we've certainly done our job.

Harris: Yes, I don't think it's a wasted effort. Not only that, I think we've laid the ground work that when the guidelines for California and others are made, you will probably find that our input has not been wasted.

Penny: I think that's a good statement to make, but the ORVAC was organized as an Ad Hoc Committee to counsel the State Director on how we should proceed in off-road vehicle use of public lands. And I think it's pretty significant that this group developed something that went far beyond that. I doubt if I know another group who has an Ad Hoc Committee operating on a reasonable basis and received more attention than did ORVAC, the attention of the higher level and not just regional, but of a National level. I think it's probably one of the more significant contributions in terms of a resource council, and I've seen many and I don't know of one with more influence. So, I think you can take a great deal of pride in having developed a great deal of, you might say, plowing new ground for management use of public land. I think you have done a great job.

Harris: Jack?

Edwards: I would like to ask one question and that is: Now, we've sat here for several hours and made our comments and our recommendations on this thing, and I would like to know where this goes from here?

Harris: I think that's a fair question. What's going to happen to these remarks? Is this stenotype going to be printed out so that somebody will read it, or just the people in this room the only ones that have heard it - what's the answer to Jack's question?

Penny: These will be developed as minutes and they will be sent in to the Secretary - in the body that will be reviewing the regulations.

Harris: Okay. Now, will these minutes show there was a general consensus that we need a better definition in these fields that we've noted?

Penny: I would think that we will use the transcript that's being developed here and submit it just as a transcript so that there will be a word-for-word presentation to the Secretary. And this is going to be something where the Bureau would digest this, summarize it as they think it should be presented, but instead it will be a verbatim transcript that will be submitted.

Let me say, too, that the way that we will conduct these 15 hearings will be a little different than what was conducted here. These are fact-finding meetings, if you wish, they really aren't hearings as such, but we will at the meetings make a presentation of what briefing was contained in the regulations.

We will have a question and answer period to kind of clarify what those are; and the people in attendance will be given an opportunity to register and sign cards requesting to make a statement or to present written statements. I mean they can present an oral statement or a written statement. And then, the meeting will be transcribed, or I should say will be reported by a Reporter just as we have here, and there will be a complete transcript of that minute. Now, this transcript will be a public record that will be available to the public. We will have copies available in our library. I presume we'll have a copy of the meetings in the Districts that are holding them, and in addition as in all such cases of this, or hearings of this type, a transcript can be obtained. They are a public record and they can be obtained by anyone at the payment of so much per page per folio. I'm not sure what that is, I believe it is 25 cents as the standard; is that right? The nod is affirmative here that it will be at 25 cents a page that you can acquire this transcript, but anyway, the transcript will be submitted to our Washington Office for review as required in the deliberations on the development of final regulations.

I guess you have the date when your comments must be presented as such.

Edwards: All of this will take place prior to the final draft of these regulations; is that what you are saying?

Penny: Yes.

Harris: Now, on the other hand, Jack, it seems to me that this is also true, that if you have a special point you want to make, I would write a communication on that special subject.

Edwards: I intend to.

Harris: Rather than assuming that somebody will pick it up in the transcript.

Penny: I should add something else, too, that it isn't necessary, of course, to attend the meetings to make your views known. I mean anyone, of course, can just follow the provisions of the submission in the Federal Register and submit that. We have copies of that here.

Harris: The address where the comments can go is in the Release itself, the address for mailing. It's in your folder, so if you have a special thing, and one of them certainly today has come out, we need a definition of "event" that doesn't persecute everybody, it doesn't require a permit for everybody. Some place there has got to be a reason, and yet, certainly if there is going to be a significant effect on the environment, there you go.

So, it seems to me that we'll have to maybe make special note of those things, and I would suggest that you do that. On the other hand, if you write a 30 page volume, it may not get read. So, get the main points.

Does anybody else have any words of wisdom they want in the transcript?

Voght: I would just like to know when those meetings will be held.

Harris: We have them on a notice here. It gives a list of 15 of them that you can get after the meeting.

Penny: Hildamae, you have it in your folder here.

Edmiston: One more thing I think for clarification. We've gone through this before. Excessive noise. That's the very last sentence on page eight.

Harris: The Legislature has tried to define that on several occasions, and has said the decibel on the "a" scale at 50 feet at 3500 revolutions a minute. Now, as you know they have said that it will be illegal to operate above, say, 86 decibels after January the 1st, 19 - what is it, '74 - something. There are specific definitions and dates for these goals to be achieved and we would assume that it would be a scientific type thing.

Edmiston: What is the measurable unit of excessive noise? What is it right now, today?

Harris: If you look at the damage to the eardrums, they'll generally say 90 decibels and anything that is above will actually not only drive you nuts, but it will make you deaf. They're saying now that on motorcycles they are going to try to get them down to 86, and just room conversations, 45. So, some place in between there is too much. If you are trying to sleep, then anything is too much.

Edmiston: Then, is there right now a cutoff point that this is excessive and this is not?

Edwards: No.

Harris: No, not a definition of excessive. There is a definition of illegal, above which you can't go.

Edmiston: What is illegal at this point?

Harris: Anything above 92 decibels. Next year's goal is 86, isn't it. Anyway, we're approaching between 80 and 90 as being generally agreed it should be illegal, but if you look at the Government Code requiring noise elements in general plans, they want noise contours down to 45 decibels and this is what they are expecting to assume and say is a hospital area is 45. So, somebody can argue, well, if anything above 45 is too noisy for a hospital, it might not be too noisy, say, on a motorcycle track.

Sanford: I feel I would be remiss if I didn't add our feelings for those expressed by Mr. Edwards with respect to the work that has gone into this and what appears to be the eventual outcome. I really feel that once the details of this are established, that this, perhaps, could be subject to some sort of a review by the Committee, either or both, possibly in the form of a recommendation that goes back to Washington.

Harris: That's what we're doing today.

Sanford: We said a lot of things today that became a matter of the transcript, but there is no assurance that what we said will have an effect.

Harris: Well, you had better go to these other public hearings, too.

Sanford: We will.

Voght: That's a subject I would like to bring up. It goes along with the Federal Register. These hearings start on the 26th all over the whole State. We have 400 something clubs, names and addresses in our file and we can't get out the letter to them in that time so that they have time to contact their people in time to make those meetings. It will be a hearing after the fact that has been familiar for years with the BLM.

Harris: Would it be in order to, perhaps, ask for an extension of that time?

Sloan: You are talking about the response on the Federal hearing dates?

Edwards: This is not only the fault of the Bureau of Land Management, this is the fault of every Governmental agency. They put out these things and by the time you get them there is no time to study your material and make a good constructive comment on the thing.

Harris: That's right.

Edwards: So far our people haven't even received this yet.

Harris: You know that when there has been adequate notice given, the general response has been almost zero.

Edwards: I don't agree with that at all, Howard.

Clausen: I would like to point out that where there is adequate warning on the Angeles National Forest, every auditorium was full, the junior college was half full, which had a very large auditorium, Burbank was completely full. Time again, where there has been enough time on these things, the people are that much interested and you don't have to go out and beat the bushes for the people to turn out.

Harris: On the one up in Oakland I had to adjourn because nobody came one afternoon.

Sanford: I was informed last week, I think the first Friday that the Folsom District was having its meetings and these were being held throughout the Folsom District, and I asked how soon they would be and I talked to Mr. Tocher about the possibility of slipping out and getting the word out and there was no way to do it as of that point in time, so I just left the room and called my wife to see what the status was. We spent almost $400 in having these schedules reprinted and having the envelopes addressed and buying the postage and they are right now waiting for some maps and some additional information coming out to stuff in those envelopes and I doubt they are going to be in time for the next Monday night's meeting, and everybody is dead in the water right now waiting for these inserts and they won't get here before Friday at the very soonest.

Edmiston: It doesn't make it adequate, no.

Sanford: Too often we've been gored when we don't have enough time to properly present something.

Harris: Ron, we'll let you make the concluding remarks.

Sloan: The public meetings aren't worth much. They are window dressings. I don't care about which one you've attended. We have until March 16th to respond to the Federal Register in writing and the address is included in this Press Release. Now, there is not anybody in this room that can't get the mailing to their groups or organizations and can't respond in writing by March 16th. There would be a heck of a lot more accomplished if you respond in writing to the specific items, rather than going down there emotionally and making a lot of noise at the public hearing. It is just going to be an emotional issue and it will not accomplish one darn thing. You've seen public hearings and you've attended enough of them, Howard.

Harris: Now, the adjournment time has come and I'm going to ask Russ to make the concluding 3 minute statement.

This will be my last meeting of ORVAC and I guess I would like to thank you for your fine work that you've done.

Edwards: Just a minute, Howard, you said this was the last meeting of ORVAC? Is the ORVAC Committee terminated as of this meeting?

Penny: Yes. That's what he was telling me and that's what he is giving the five minutes for. That's not much time.

I gave part of my speech here a little bit ago on what ORVAC was for as a ad hoc committee to assist us in the deliberations of off-road vehicle use, and of course, you have done a service job for us. Now, of course, at the last meeting we talked about what we should continue on at that time and you wanted to make comments on this. I should say that after we began the job we set out to do, that was to develop the procedures that were in the ORVAC Report that Craig Tocher held up a little bit ago and we wanted to have a report following straight to see how things developed and we also felt we should have a meeting to pass on these regulations. We've done this.

In the meanwhile, I don't have the material that you gave me yesterday, I gave them to you, do you have them there in that green and red memorandum?

Birch: I laid it on your table there, Russ.

Penny: Well, there was established the Federal Advisory Committee Act and it was signed by the President on October 6 and became effective on January 5, 1973, and this act - and I'm reading here now, "governs the creation and operation of the Advisory Committees of the Executive Branch. It does not apply to inter-agency Advisory Committees. The general rules of this act will apply to all Advisory Committees except to the extent that an Act of Congress establishes such a Committee and specifically provides otherwise."

A brief summary of the provisions of the Act as follows: It says that Sections 5, 6, 7, and 13 assign certain responsibilities to the standing committees of Congress, the President,the Director, the OMB and the Library of Congress, respectively. Section 8 goes on with the responsibility of agency heads to establish centralized responsibility agency heads, which is the Secretary of the Interior in our case. It calls for issuance of agency guidelines, management controls consistent with those issued by the OMB.

Creating advisory heads required to adhere to the principles of Section 5-B, and in brief these principles are - and it tells about five of them here: clearly defined purpose, fairly balanced membership, exercise of independent judgment, adequate administrative procedures, adequate staff quarters and funding.

And then this Committee prior to the establishment of the Advisory Committee, it must publish in the Federal Register a format in the determination of the establishment of the Committee.

We must have a charter. Section 9 requires a filing of a charter containing certain information before an Advisory Committee takes any action; provides for procedures for holding of meetings and this sort of thing. It goes on here quite a bit. Anyway, the development of the charter has to be submitted to the Secretary, who in turn acts on this and then would appoint - he decides whether there should be a Committee and go from there.

Now, it's been advised that we don't have ad hoc committees and this type of thing. And so, we generally felt that the ORVAC would not fit into this category, but more than that, it was the view that ORVAC had probably completed its function as originally proposed.

Now, this does not mean to me that we can't seek counsel from you people. I hope we do. And it doesn't mean that the citizenry is not going to be involved in the decisions we make with off-road vehicles. I think it does say that we can consider that ORVAC had reached the point where it had accomplished the purpose it was set out for and had done a great job at that and I think the time has come when it has used up its usefulness as was set up.

If we were to organize the Committee, it would have to be done in line with the Federal Advisory Committee Act and the development of a charter and this sort of thing, including the development of funding for the operation of a committee, paying the per diem and following the general guidelines as described in the Act. After discussing this with your Chairman and Vice-Chairman, Ron Sloan, we determined we would have to consider this as probably the final meeting of ORVAC as such.

I guess that's about the story as we see it, Ron. Again, I would say I appreciate everything you have done and I want to say as far as I'm concerned, personally, the principals that were set out in ORVAC I believe you people developed and I'm glad to be a part of ORVAC and I thank you for your support wholeheartedly, and I think we're carrying out these guidelines that you set forth, and I think this is through the actions that have been going on in the Bureau in California ever since, and I think you will see that they will continue that way. I want to thank you for everything you have done.

Edwards: Russ, how about the local ORVAC Committees, will they be terminated as of now?

Penny: Those committees that the Districts have are something that should be continued, I mean that's the principle, I think, that the Bureau has followed. It's part of the system we use in our general administration. The Bureau has a long history of working with the public. My entire nearly 40 years now have been one in which we have worked with people and to appreciate what they can give in terms of counsel and advice. And this is going up so much over the years that the Bureau is just kind of built within and when we have situations as we do now where the use of people is needed more than ever, and this is so engrained in the Bureau, that you find it in the Bureau's planning process from cover to cover. I mean it's the idea that the Bureau's actions are built around public participation.

I think today the public has kind of grown into this. The Bureau might have been ahead, but the idea now is that the people have an interest in the Government that they have never had before. I mean they are demanding to be a part of the decision-making process. This also comes about at a time when the National Environmental Policy Act was passed in recognition of the demands of people as to the environmental situation where we must be doing something about it. People recognize that and use terms of ecology and the environment and all these things, so they really put this across real big to the point that it got the attention of Congress and Congress has done something about it by passing the Act. Well, that is a part of this. And then, the people then went right along and the people were demanding that they be part of the decision-making processes, which was also built into our administrative way of life.

Today an administrator who has any idea he can get by without bringing the public into the decision-making process, is kidding himself because it couldn't be done, he couldn't survive. And whether I would like it or not, I couldn't possibly exist for a month without doing that. So, I'm not going to quit in a month, I'm going to be here for quite awhile longer, but I can assure you that I am a very firm believer in this process where we're working with people. I mean it is agreeing with me and I can work with it and you won't have to worry about our people working with the public, because I can assure you that they certainly carry the attitude from the State Office anyway, that we want all kinds of techniques used. You won't necessarily just see it in committees, you'll find that they will be talking to the public in many different ways and however best to arrive at these decisions.

I might say that some of the things I was talking about I was talking to someone today about how we're going to get these jobs done. First of all we have to have management planning. We've discussed this all through ORVAC and it was a matter of management and management planning. How do you make them up, and we were talking about making up an inventory so we can determine what the resources are, what the uses are and from that, develop the conflicts and resolve those conflicts and when you resolve them, you end up with a plan we can follow.

Well, this past year we did that insofar as off-road vehicles are concerned and I think we got that job done. It wasn't done entirely to the satisfaction of off-road vehicle people, I appreciate that, but we did get started as to how we can control and how we can at least get organized events. We haven't done too much in terms of the every-day person we talked about and many of you have complained about that and properly so. It's been pinpointed out today here many times that our problem is not the organized events as such, it is the casual day-by-day user. This is true. We recognize this. So, we are in the process now, and I don't mind telling you that after I directed our people to read just their orders of their work priorities so we can have a plan of action starting now, so that when we start into the course next year, next fall, we will have something to look at and say, here at least, is a plan.

Now, to start with, what we'll do, we'll have an inventory that will show at least some of the things that we consider to be areas where the least amount of damage can be done. That will be a start and from that we'll build to it. Our trouble right now is that if we do develop such a plan and do it the way we'd like it, we're going to have a hard, tough time on the implementation. And we've said this and I think it went all through ORVAC meetings that it was said that we can take the Marine Corp, the Army and all of that, but unless we have people, educated people who want to go with us, we aren't going to get that job done. We haven't changed our mind on that a bit and we say that we still need to educate people and we've got to have people going with us. We aren't going to get people going with us if we don't work on it so that they can understand what we're doing and we can understand what they are doing. We're just as sincere in that today as we were in 1969 when we started ORVAC. That's the reason why ORVAC was organized so we could get the input and it hasn't changed and it isn't going to change. So, because this is the last meeting of ORVAC, it doesn't mean this is the last meeting of people because we're going to call on you a lot, we need your help and with it we can do everything, and without it we can't do much.

Edwards: Would you care to comment on the rumors that we have heard quite recently which is becoming more and more of a problem, to the effect that the BLM will furnish the land and that it will be the State Department of Parks and Recreation that will manage the recreation?

Penny: I don't know where you ever heard that.

Edwards: Oh, we hear it.

Penny: I hear all kinds of words around me here that are affirmative and supporting your statement, but the answer is this: The Bureau of Land Management is in the recreation business, it's in there all the way. We have a charter which says that we are a multiple use management agency and we must manage on a multiple use principle. Now, multiple use management means all the uses, and all the uses includes recreation and that's exactly what we're doing. We're in there and we're committed. Congress is committed, we get funding for recreation and I know of nothing that would indicate we're going to get out of the recreation business. That's just not in the charter.

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You referred to the State Department of Parks and Recreation, and I'm sure that without even running any risk I can be safe in saying that they wouldn't want to take over the complete job of recreation of the Bureau of Land Management.

Now, there is a lot of concern as to what recreation is, you know. Just stop and think about that just a minute, just what is the recreation job of the Bureau of Land Management. Just taking California, let's just take the California desert areas. We are talking about 14 million acres of public lands, we're talking about the use of - let's see, in 1968 we figured we had 5 million visitor days. Today that is double and many of our people say it's far more than that because we don't count in the day use. So, we're growing tremendously. Those people are using all of our lands, virtually all of them and at the same time we're managing it for mining, we're managing it for wildlife, we're managing for grazing. There are a great many uses and they are all together. You can't separate them out. So, all you have to do is just think about that and you couldn't stay out of the recreation business if you wanted to. No way. For somebody to take over the recreation management, means they would have to take over all of the other types of administration that the Bureau has got, too. You can't separate it and the Bureau is not about to do that. Congress wouldn't if we wanted it to. So, all I can answer to you, Jack, is no way.

Harris: The meeting is adjourned. I would like to thank everyone for coming.

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